

*Stephen F. Emery, M.D., et al. v.
Meridian Surgical Partners, LLC, et al.*

*John Schneider, M.D.
December 11, 2015*

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Min-U-Script® with Word Index

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4 JAY WINZENRIED, M.D., BIG
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ALSO APPEARING: Doug James, Moulton Bellingham
Kenneth Hancock, Meridian

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1 APPEARANCES
2
3 ATTORNEY APPEARING ON BEHALF OF THE CLAIMANTS,
4 STEPHEN F. EMERY, M.D., P.C., JAY WINZENRIED,
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1	Exhibit 8	12/13/2010 - Letter from J. Schneider to Advance Care Hospital of Montana, Bates-stamped Schneider 370	125	1	FRIDAY, DECEMBER 11, 2015
2				2	Thereupon,
3	Exhibit 9	5/3/2011 - OMNI Partner Meeting Minutes, Bates-stamped MSPM 513 - 514	132	3	JOHN SCHNEIDER, M.D.,
4				4	a witness of lawful age, having been first duly
5	Exhibit 10	8/2/2011 - The Surgical Center at OMNI Governing Board Meeting Minutes, Bates-stamped MSPM 515 - 518	136	5	sworn to tell the truth, the whole truth and
6				6	nothing but the truth, testified upon his oath as
7	Exhibit 11	7/16/2013 - E-mail from L. Stinson to M. Samples, F. Schmidt, S. Gibbons, S. Emery, J. Winzenried, and R. Nistico, Bates-stamped Schmidt 541 - 543	154	7	follows:
8				8	MR. CLARK: Steele, before we get started
9				9	here, I want to put a couple things on the record.
10	Exhibit 12	8/9/2011 - Membership Interest Purchase Agreement between ONI Surgical Center and SLP, Bates-stamped Schneider 1040 - 1044	155	10	First of all, I'm here representing Schneider
11				11	Limited Partnership and Schneider Management, LLC.
12				12	You've also noticed on your Notice of
13	Exhibit 13	9/28/2011 - Membership Interest Purchase Agreement between SLP and D. Mattson, Bates-stamped MSPM 32121 - 32125	156	13	Deposition John Schneider, individually. I do not
14				14	represent John Schneider, individually. To the
15	Exhibit 14	12/2/2011 - E-mail from E. Layton to A. Humphreys, Bates-stamped MSPM 413	170	15	extent that you ask questions of Dr. Schneider in
16				16	his individual capacity, Mr. Womack is here today.
17	Exhibit 15	12/13/2011 - Article in Powell Tribune, Bates-stamped MSPM 269	174	17	I believe that Dr. Schneider has -- or
18				18	Dr. Schneider is a Claimant. I believe that the
19	Exhibit 16	12/14/2011 - Article in Cody Enterprise, Bates-stamped MSPM 266 - 268	176	19	claims that he has in this proceeding are held by
20				20	the trustee. So I'm not sure how we're going to
21	Exhibit 17	10/17/2010 - Booking Photo of Jimmie Biles, Bates-stamped SPENCE 3637	180	21	work that out.
22				22	MR. WOMACK: My name is Joe Womack. I am
23	Exhibit 18	8/30/2011 - United States District Court, Biles v Fallon, Bates-stamped SPENCE 2874 - 2885	181	23	the Chapter 7 trustee for Dr. Schneider's Chapter
24				24	7 bankruptcy. I don't represent Dr. Schneider
25	Exhibit 19	12/13/2011 - E-mail from J. Grissom to C. Kowlaski, Bates-stamped MSPM 4867	183	25	personally. I'm here only in my capacity as the
			Page 6		Page 8
1	Exhibit 20	12/14/2011 - Letter from L. Byrd and M. Rumans to K. Hancock, Bates-stamped MSPM 280	185	1	Chapter 7 trustee. So as far as individual
2				2	representation, Dr. Schneider is on his own.
3	Exhibit 21	1/31/2012 - Article in Billings Gazette, Bates-stamped MSPM 264 - 265	188	3	MR. CLARK: Very good.
4				4	THE WITNESS: And I need to read
5	Exhibit 22	4/14/2014 - List final disciplinary orders entered on physicians and PAs, Bates-stamped MSPM 2770 - 2788	191	5	something as well: I'm here as a witness only in
6				6	the claim that Schneider Limited Partnership has
7	Exhibit 23	1/7/2014 - Schneider v Centers for Medicare & Medicaid Services, Bates-stamped MSPM 2789 - 2795	193	7	against Meridian Healthcare and not in my own
8				8	capacity. Any questions about a claim against
9	Exhibit 24	5/15/2012 - Article in The Republic, Bates-stamped MSPM 256 - 257	200	9	Meridian has to be directed to Mr. Womack, trustee
10				10	of my estate, if appropriate. And I am here
11	Exhibit 25	5/15/2012 - Article in Powell Tribune, Bates-stamped MSPM 6673	200	11	representing myself.
12				12	MR. CLAYTON: I'm sorry. What was the
13	Exhibit 26	4/26/2012 - Transcript in Biles v Schneider, Bates-stamped MSPM 26205 - 26229	202	13	last part?
14				14	THE WITNESS: And I'm here representing
15	Exhibit 27	5/15/2012 - E-mail from J. Schneider to S. Emery, F. Schmidt, J. Winzenried, and A. Baker, Bates-stamped Emery 450	207	15	myself.
16				16	MR. CLAYTON: Okay. What were you
17	Exhibit 28	5/25/2012 - E-mail from J. Schneider to S. Emery, F. Schmidt, S. Gibbons, A. Baker, D. Mattson, and Dr. Cross, Bates-stamped Emery 451	210	17	reading from?
18				18	THE WITNESS: Well, I wrote that down.
19	Exhibit 29	8/18/2012 - E-mail from J. Schneider to S. Emery and F. Schmidt, Bates-stamped Emery 434	217	19	That's what my -- Mr. Harold Dye recommended that
20				20	I read in order to be able to provide testimony
21	Exhibit 30	10/11/2013 - E-mail from J. Schneider to F. Schmidt, S. Emery, J. Winzenried, A. Baker, Bates-stamped Emery 439	219	21	today.
22				22	MR. WOMACK: And just for information
23	Exhibit 31	4/23/2012 - Letter from R. Fleck to L. Stinson, Bates-stamped SPENCE 1 - 30	227	23	purposes, if you don't know, Mr. Dye is the
24				24	bankruptcy attorney in Missoula, Montana, that
25				25	filed the Chapter 7 bankruptcy for Dr. Schneider.

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1 **MR. CLAYTON:** So I understand, we can
2 come back to that. Before we get started, I think
3 just for the record, let's introduce counsel so we
4 know who's in attendance.
5 Taylor Chenery and Steele Clayton, we
6 represent Meridian Surgical Partners and Meridian
7 Montana Surgical Partners, LLC.
8 **MR. JAMES:** Doug James representing
9 Meridian Surgical Partners in the John Schneider
10 bankruptcy case.
11 **MR. VAN ATTA:** John Van Atta representing
12 Claimants, Daniel Mattson and Andrew Baker.
13 **MR. RAGAIN:** Jim Ragain. I represent the
14 three docs from Cody.
15 **MR. CONSTANZA:** Greg Costanza. I also
16 represent the three docs from Cody: Schmidt,
17 Emery, and Winzenried.
18 **MR. CLARK:** And I think I introduced
19 myself, but Dave Clark representing Schneider
20 Limited Partnership, Schneider Management, LLC,
21 and I also represent Michelle Schneider in this
22 arbitration.
23 **EXAMINATION**
24 **BY MR. CLAYTON:**
25 **Q. Before we get started, Dr. Schneider, I**

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1 want to go over a couple of ground rules. I
2 assume you've been deposed before?
3 A. Yes.
4 **Q. I'm going to obviously ask you questions**
5 **today. As you know, she's going to take down**
6 **anything that you say and that I say or that**
7 **anyone else says. If I ask you a question and you**
8 **don't understand it, please let me know and I will**
9 **repeat it or have her read it back to you. Do you**
10 **understand that?**
11 A. Yes.
12 **Q. If I ask you a question and you answer**
13 **it, I'm going to assume that you understood the**
14 **question; is that fair?**
15 A. Yes.
16 **Q. If at any point you wish to take a break,**
17 **just let me know. I would ask that if a question**
18 **is pending, that you answer the question before we**
19 **take a break. Do you understand that?**
20 A. Yes.
21 **Q. Is there any reason that you are not able**
22 **to testify accurately and completely today?**
23 A. Not that I'm aware of.
24 **Q. Do you have any medical conditions that**
25 **would prohibit you from testifying accurately and**

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1 **completely today?**
2 A. I had some bad chicken last night, so I
3 may need to take more breaks than I'm used to
4 taking.
5 **Q. Are you on any medication that would**
6 **prevent you from testifying accurately and**
7 **completely today?**
8 A. Not that I'm aware of.
9 **Q. Let me start off and ask you,**
10 **Dr. Schneider, what is your date of birth?**
11 A.
12 **Q. And where do you currently live?**
13 A. I have a home here in Billings, Montana,
14 3611 Tommy Armour Circle. I spend about a third
15 of my time between that home and Northern Wyoming.
16 **Q. Okay. So the address you gave me, that**
17 **was a Billings address?**
18 A. Correct.
19 **Q. And then do you also have a residence in**
20 **Cody or somewhere in that area?**
21 A. Outside of Cody there is a ranch property
22 that's owned by my children. It's an irrevocable
23 trust.
24 **Q. What's the address for that?**
25 A. 1962 Lane 15, Powell, Wyoming.

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1 **Q. Do you also have a residence in**
2 **California?**
3 A. I do not.
4 **Q. Do you spend significant time in**
5 **California?**
6 A. About a third of my time in California.
7 **Q. Okay. And when you spend your time in**
8 **California, where do you stay?**
9 A. My wife is renting a house in Southern
10 California. I stay at that house.
11 **Q. What is your current occupation?**
12 A. I'm a neurological surgeon. I provide
13 independent consultation and teaching and surgical
14 education with AlphaTech Spine. That's located in
15 Southern California.
16 **Q. So are you actually performing medical**
17 **procedures with AlphaTech?**
18 A. Yes.
19 **Q. Okay. And surgeries?**
20 A. Yes.
21 **Q. So do you have a license in California?**
22 A. No.
23 **Q. Okay. How do you perform surgeries in**
24 **California without a license?**
25 A. The surgeries that are done at AlphaTech

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1 are in a cadaver lab for teaching purposes. And
 2 AlphaTech is actively engaged in developing a
 3 variety of centers in and outside of the
 4 United States to introduce their products.
 5 So my role with them over this past year
 6 and going forward has been teaching surgeons from
 7 places such as China and Japan, throughout South
 8 America, how to do specific particularly minimally
 9 invasive reconstructive spine surgeries at their
 10 center in Southern California.
 11 And then with anticipation of going to
 12 those surgeons' locations and operating with those
 13 surgeons to teach them how to do those procedures
 14 on their live patients.
 15 **Q. And the procedures that you're**
 16 **instructing these surgeons on, what types of**
 17 **procedures are these?**
 18 A. They're all reconstructive spine
 19 surgeries.
 20 **Q. Are these procedures that you were doing**
 21 **when you were here in Billings and doing**
 22 **procedures at the Northern Wyoming Surgery Center?**
 23 A. Yes.
 24 **Q. I thought you mentioned a minute ago**
 25 **about AlphaTech Spine. Do they have a product,**

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1 **some sort of orthopedic products, a spine product?**
 2 A. Spinal implant product line.
 3 **Q. Is that a new product?**
 4 A. Clarify.
 5 **Q. Well, what I'm trying to -- wonder, did**
 6 **you use their product when you performed surgeries**
 7 **here in Wyoming and Billings area?**
 8 A. The products have evolved over the last
 9 25 years, and so AlphaTech is one of the companies
 10 that provided spinal implants while I was actively
 11 in practice here in Billings and Northern Wyoming
 12 area. So one of many companies. They're actively
 13 developing new products for surgeons to utilize.
 14 **Q. Do you have a role in developing those**
 15 **products?**
 16 A. Consultation role, yes.
 17 **Q. What do you do in that role?**
 18 A. I'm part of a 15-physician collective
 19 that, as their engineers and developers discuss
 20 the particular implants to a risk benefit analysis
 21 on whether it's something that's worth pursuing.
 22 So we're constantly providing consultation as to
 23 what we think would be appropriate in the
 24 development and design of those products.
 25 **Q. How many days a month do you spend at**

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1 **AlphaTech in Southern California?**
 2 A. Approximately a week a month.
 3 **Q. Do you know the address of their teaching**
 4 **facility or wherever you do your work?**
 5 A. It's on El Camino Real in Carlsbad,
 6 California. I don't remember the specific
 7 address.
 8 **Q. I'm sorry. You said how many days a week**
 9 **a month?**
 10 A. Approximately a week a month. If I'm
 11 traveling with them, I may spend a week in its
 12 entirety somewhere, so it may be more.
 13 **Q. So have you, then, actually traveled to**
 14 **observe, I guess, surgery of surgeons you've**
 15 **instructed?**
 16 A. Yes.
 17 **Q. Do you actually do any surgical**
 18 **procedures with them when you travel, or are you**
 19 **simply observing?**
 20 A. Both.
 21 **Q. Where have you gone to observe and/or do**
 22 **surgical procedures with your students?**
 23 A. Shanghai once. And I'm scheduled to go
 24 to Ecuador the beginning of the year, and then Rio
 25 de Janeiro within the first quarter of the year.

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1 **Q. When you go to Shanghai to do these**
 2 **procedures, do you have to have any kind of**
 3 **medical credentials or a license?**
 4 A. No.
 5 **Q. And that is just under Chinese law, you**
 6 **don't have to have a medical license?**
 7 A. I can't testify as to their law.
 8 Whatever the relationship that AlphaTech is able
 9 to establish with these facilities there, it
 10 allows them to bring in visiting surgeons who are
 11 board-certified spine fellowship-trained
 12 neurosurgeons, and that allows me to operate at
 13 those facilities.
 14 **Q. When did you start with AlphaTech?**
 15 A. I started consulting for them about a
 16 year and a half ago.
 17 **Q. So middle of 2013, roughly?**
 18 A. Approximately.
 19 **Q. Have you applied for a California medical**
 20 **license?**
 21 A. I have not.
 22 **Q. Other than AlphaTech, do you have any**
 23 **other occupation at this current time?**
 24 A. I'm involved in software development for
 25 physician practice management and medical/legal

<p style="text-align: right;">Page 17</p> <p>1 case analysis. And I'm -- which I spend about a 2 third of my time involved with. 3 And I'm also about seven or eight months 4 into a Master's degree with Creighton Law School 5 in alternative dispute resolution, conflict 6 negotiation. And that's both online as well as in 7 residence at Creighton Law School. 8 Q. So I'm sorry, did you say is it South 9 Ford Development or -- 10 A. I'm sorry? 11 Q. What was the name -- 12 A. Software. 13 Q. Software. I'm sorry. Is that the name 14 of a company, or is that just your generic 15 description of your working with some software 16 developers? 17 A. The latter. 18 Q. Software developers? 19 A. Correct. 20 Q. Is there a company name that these 21 developers work for or within? 22 A. Yes. 23 Q. What is the name of that company? 24 A. MedPort. 25 Q. Where is MedPort located?</p>	<p style="text-align: right;">Page 19</p> <p>1 The software itself is a platform for 2 which to collect -- it's a management software 3 platform, collecting information, allowing input 4 information. It's HIPAA information protected. 5 Q. How long have you been working with 6 MedPort? 7 A. Approximately a year and a half to two 8 years. 9 Q. So sort of the same time frame as with 10 AlphaTech? 11 A. Yes. 12 Q. And then you mentioned you're also in 13 getting -- I think you said maybe a Master's in 14 ADR conflict resolution? 15 A. Correct. 16 Q. And that was at Clayton Law School? 17 A. Creighton University School of Law. 18 Q. Do you have a law degree? 19 A. No. 20 Q. So it would be a Master's in -- it 21 doesn't require that you have a JD, in other 22 words, to get the Master's degree? 23 A. Does not. 24 Q. When did you enroll in that program? 25 A. I believe it was September -- no -- I</p>
<p style="text-align: right;">Page 18</p> <p>1 A. In Southern California. 2 Q. Is it in Carlsbad as well? 3 A. It's in Encinitas, California, which is 4 next to Carlsbad. 5 Q. And what specifically are you doing for 6 MedPort? 7 A. I don't write code, but my input is what 8 physician practice or my experience in the 9 medical/legal arena is what is the basis for which 10 software is being developed, to be able to provide 11 those -- to develop that software. 12 Q. And what will the software do? 13 A. One of the projects has to do with 14 physician-managed -- managing in a physician's 15 practice, patient flow. And the other has to do 16 with case analysis, expert witness case analysis 17 for potential medical malpractice claims. 18 Q. So would this software actually analyze a 19 case, or is it you providing expert testimony in 20 med mal cases? 21 A. Well, the software wouldn't analyze the 22 case. I have provided expert testimony for both 23 Plaintiff and Defense, me personally, under the 24 auspices of MedPort on med mal cases and other 25 expert witness cases.</p>	<p style="text-align: right;">Page 20</p> <p>1 think I'm about six months into it, so summer of 2 this past year, 2015 -- 3 Q. How long -- 4 A. -- May or June, perhaps. 5 Q. I'm sorry. May or June of this year? 6 A. Yes. 7 Q. How long is the program? 8 A. Approximately a year and a half. 9 Q. And what will you do with that degree? 10 A. I think that there is a significant need, 11 with all due respect to everybody, but you in the 12 room, because everyone else is a lawyer (speaking 13 to reporter), with all due respect to everyone in 14 the room, I think there's a significant need for 15 conflict management within the healthcare system 16 that does not include the need to go to a lawyer 17 every time there's conflict. So I anticipate my 18 future in that management role with those skill 19 sets. 20 Q. So would you be, like, a private mediator 21 for parties? Is that what you envision? 22 A. That, perhaps, is part of it. 23 Q. Prior to MedPort, AlphaTech, what were 24 you doing for your occupation? I'm saying before 25 mid 2013.</p>

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1 A. Neurological surgery full time.
2 **Q. And where were you performing procedures**
3 **in, say, beginning of 2013?**
4 A. In Northern Wyoming.
5 **Q. What facilities were you performing**
6 **procedures at in, say, January of 2013?**
7 A. Northern Wyoming Surgical Center;
8 Sheridan Surgical Center; Powell Hospital, Powell,
9 Wyoming.
10 **Q. Northern Wyoming Surgery Center, Powell**
11 **Hospital?**
12 A. In Powell, Wyoming.
13 **Q. There was one other. Sheridan?**
14 A. Sheridan Surgical Center.
15 **Q. Okay. What is the approximate date of**
16 **the last surgical procedure you performed in**
17 **Northern Wyoming?**
18 A. Either late January or early February of
19 2013.
20 **Q. Why did you stop performing procedures in**
21 **Northern Wyoming in late January or February of**
22 **2013?**
23 A. My E&O coverage certificate was not
24 valid, was deemed not valid, nor had it ever been
25 valid in Wyoming. When that came to light, the

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1 hospitals required that I obtain alternative E&O
2 coverage, and I elected not to pursue it, pending
3 the outcome of a contested case hearing I had with
4 the Wyoming Board of Medicine.
5 **Q. And would that be the Russell Monaco**
6 **case? Is that what you're referring to?**
7 A. Yes.
8 **Q. And I want to come back to that in a**
9 **minute. But while I'm here, has that case been**
10 **resolved by the Wyoming Board at this point?**
11 A. No.
12 **Q. What is the current status of that case?**
13 A. My attorney for that case is Steve Kline
14 and Melinda McCorkle. They are in Cheyenne,
15 Wyoming, and they have appeared before Judge
16 Campbell in District Court, Wyoming District
17 Court, in February of 2015, appealing the Wyoming
18 Board of Medicine's methodology for the decision
19 they reached. And Judge Campbell has not ruled.
20 This case will go to the Wyoming Supreme Court.
21 **Q. And so the appeal is in state court, as I**
22 **understand it, Wyoming District Court; is that --**
23 A. That's my understanding.
24 **Q. Okay. Has there been a hearing in that**
25 **court yet?**

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1 A. Yes. February of 2015.
2 **Q. Was that a hearing that you testified at**
3 **live, or was it a hearing that was done**
4 **essentially by the papers arguing to the Judge?**
5 A. I was there. I was not called to
6 testify. But my attorney made his argument, the
7 Board of Medicine attorneys made their argument.
8 **Q. Do you know when Judge Campbell will**
9 **provide a ruling?**
10 A. I have probably spent \$5,000 in
11 attorney's fees, asking my own lawyer that
12 question. So, no, I don't know.
13 **Q. There's no set schedule as far as you**
14 **know?**
15 A. Apparently, judges don't have to work on
16 a set schedule.
17 **Q. When you were performing procedures in**
18 **January, February 2013, where did you have**
19 **admitting privileges?**
20 A. Powell Hospital, Powell, Wyoming;
21 Northern Wyoming Surgical Center; Sheridan
22 Surgical Center.
23 **Q. So Powell Hospital, you had admitting**
24 **privileges at Powell Hospital. What about West**
25 **Park Hospital?**

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1 A. In February of 2013, I did not have
2 privileges at West Park Hospital.
3 **Q. Did you have any applications pending at**
4 **any other hospitals in this area for privileges in**
5 **January or February of 2013?**
6 A. I did not.
7 **Q. All right. Let me take a step back here**
8 **and just ask you: When did you first start**
9 **practicing medicine in Billings or Northern**
10 **Wyoming?**
11 A. 19- -- the end of 1996.
12 **Q. And prior to 1996, where were you**
13 **located?**
14 A. From 1992 to 1996, I was in San Antonio,
15 Texas, active-duty Air Force, Wilford,
16 W-I-L-F-O-R-D, Hall Medical Center, Lackland Air
17 Force Base, for four years.
18 **Q. Okay. And prior to 1992, where were you?**
19 A. If I may answer the question indirectly.
20 From 19- -- I graduated from high school in '79;
21 college in '83 at USC; medical school at USC in
22 1987; my residency went from 1987 to 1992, and
23 that was at LA County USC Medical Center; and the
24 last year I was chief resident at that facility.
25 **Q. All right. And then, upon completing**

Page 25

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1 **your residency, then you went into the Air Force?**

2 A. Correct. They paid for medical school.
3 I had a full scholarship. So at the completion of
4 my residency, I owed them four years.

5 **Q. So in '96, when you came -- did you come**
6 **to Billings in '96, then?**

7 A. Yes.

8 **Q. Okay. And did you join a practice? Were**
9 **you employed by a hospital? What was your**
10 **situation?**

11 A. I performed in late 1996 a one- or
12 two-week locum tenens, which is like covering a
13 practice, with two neurosurgeons that were
14 independent -- they had an independent practice
15 called Yellowstone Neurosurgical Associates at
16 St. Vincent's.

17 So I covered their practice, kind of a
18 working interview. And then they offered me a job
19 as their employee for a year. And that's how I
20 ended up in early 1997 locating -- relocating to
21 Billings full time.

22 **Q. So you said you were an employee for a**
23 **year --**

24 A. Correct.

25 **Q. -- in '97. Did you start your own**

1 Wyoming.

2 **Q. How long did you stay in this practice of**
3 **Yellowstone Neurological Associates?**

4 A. Well, all five surgeons remained as
5 independent practitioners at St. Vincent's. But
6 sometime in 2002, there was some money disputes in
7 the allocation of funds earned. And the partner
8 that I was closest with, who actually was the
9 oldest of the group, Lashman Soriya, left the
10 practice and resigned from the practice with an
11 anticipation of continuing a practice. And I
12 promptly joined him.

13 So he and I continued on as partners from
14 2002 through 2004, and the name of that group was
15 Northern Rockies Brain & Spine.

16 **Q. You were here for Ms. Trier's deposition**
17 **on Monday?**

18 A. I was.

19 **Q. Did she begin working for you at Northern**
20 **Rocky Brain & Spine?**

21 A. She began working for Dr. Soriya and
22 myself at that location.

23 **Q. And what approximate year was that?**

24 A. 2002.

25 **Q. And did she pretty much work for you in**

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1 **practice? Where were you employed at that point?**

2 A. By the two neurosurgeons, Yellowstone
3 Neurosurgical Associates.

4 **Q. How long were you with Yellowstone**
5 **Neurosurgical Associates?**

6 A. Well, in 1998, two other surgeons joined
7 us, and my employment was for a year with a -- it
8 was on a partnership track. So at the end of that
9 year, I became a partner with not only those two
10 surgeons, but then two new surgeons that -- one
11 was local and relocated, and then one came from
12 Seattle. So now in 1998, there were five of us in
13 the same neurosurgical group.

14 **Q. Okay. What were the names of the other**
15 **four neurosurgeons?**

16 A. Fred McMurry, John Moseley, John Oakley,
17 Lashman Soriya.

18 **Q. And at that point in time -- so this is**
19 **1998?**

20 A. Correct.

21 **Q. -- were you credentialed and had**
22 **privileges at St. Vincent?**

23 A. St. Vincent's Hospital, Deaconess
24 Hospital. And by the end of '97, I had obtained
25 credentials at West Park Hospital in Cody,

1 **some capacity from 2002 until September of 2012?**

2 A. Well, I took a leave of absence from
3 practice, as well as the hospital credentials --
4 or I should say the medical staff. I took a leave
5 of absence from -- I believe it was June of 2004
6 to August of 2005 and accepted an assistant
7 professor of neurological and orthopedic surgery
8 at the University of Utah.

9 So during that one year, I became
10 credentialed at not only the University, but all
11 of its affiliate locations in Salt Lake City.

12 **Q. Do you still have your Utah license?**

13 A. It's in suspended animation because I'm
14 not practicing there.

15 **Q. All right. Is that a -- "suspended**
16 **animation," is an official term that the Board of**
17 **Medicine for Utah uses? I mean is that a term of**
18 **art, or is that just your characterization?**

19 A. It's both. It's a term of art, perhaps,
20 but it's a license that if I wanted to practice
21 there, I would go -- I would meet with the Board
22 to reactivate my license. But I would not have to
23 reapply de novo.

24 **Q. But you couldn't fly to Provo today and**
25 **do a spine procedure?**

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1 A. No.

2 **Q. And at what point in time did your Utah**

3 **license become suspended?**

4 A. Well, I left there in 2005. And so when

5 you're not actively practicing in the state, 2006,

6 perhaps, it went from active to inactive. I think

7 the term is inactive. So it's an inactive license

8 in the state of Utah.

9 **Q. Do you submit any kind of CME credits to**

10 **Utah?**

11 A. You don't have to when it's inactive.

12 **Q. Let me back up for a minute. You said**

13 **that -- and help me pronounce this -- is it**

14 **Dr. Shoria?**

15 A. Soriya.

16 **Q. Soriya. Excuse me. You left with him,**

17 **and sounds like the genesis, what I wrote down,**

18 **were money disputes.**

19 A. There were some quality-of-care disputes

20 as well as money disputes.

21 **Q. What was the money dispute?**

22 A. Well, like most money disputes, who gets

23 what share of the pie. But I think the impetus

24 for Dr. Soriya leaving was -- and I can only -- I

25 can only testify to what I recall; I can't testify

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1 as to what his state of mind was. But as I

2 recall, he wanted to stop taking active call. And

3 he was 65, I believe. And the other partners,

4 other than me, were late 50s, early 60s.

5 And one of them decided that -- we had

6 never been reimbursed by the hospital for any kind

7 of call. We all -- regardless of what kind of

8 work anyone did, it all went into a common pot.

9 Overhead was paid and everybody took equal shares.

10 So there was no individual reimbursement based

11 upon the amount of work that's being done or the

12 difficulty, what are called RVUs in medicine.

13 So that was a protracted point of

14 dispute. But the very specific issue was

15 Dr. Soriya decided he no longer wanted to be part

16 of the five-man call group, but wanted to remain a

17 partner. And Dr. Moseley decided that a night on

18 call was worth 75 -- or all the nights for one

19 person over the course of the year was worth

20 \$75,000. And so Dr. Moseley decided, who I think

21 was president of the group at that point, that

22 Dr. Soriya would be docked \$75,000 on an annual

23 basis from his salary. Dr. Soriya would have none

24 of that and promptly resigned.

25 **Q. Why did you leave with him?**

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1 A. Because he was by far the best surgeon in

2 the group, consummate gentleman, I had every

3 respect for him, and he and I worked very well

4 together. So I left with him.

5 **Q. And then in 2004, you quit practicing**

6 **with him; is that right?**

7 A. In 2004 I took a leave of absence from

8 the practice and went to the University of Utah.

9 **Q. Why did you take a leave of absence?**

10 A. Well, I had to put my credentialing in

11 some type of -- it's artful, but suspended

12 animation, so that I could go somewhere else to

13 practice.

14 **Q. Why did you want to go somewhere else to**

15 **practice?**

16 A. I had an opportunity to be an assistant

17 professor at a major university, so it was an

18 academic feather in one's cap.

19 **Q. So it was not the result of any kind of**

20 **dispute with Dr. Soriya?**

21 A. I did not have a dispute with Dr. Soriya

22 when I left.

23 **Q. Did you have dispute with St. Vincent or**

24 **any other physicians in town that led you to want**

25 **to go to Utah?**

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1 A. There was no dispute with any other

2 physicians that prompted me to want to go to Utah.

3 **Q. You wanted just to pursue the academic**

4 **opportunity?**

5 A. Sure. As physicians, we spend a

6 significant amount of our CME, continuing medical

7 education, going to national meetings. And it is

8 the "grass is always greener perspective" to watch

9 the academic guys present and discuss their cases

10 and have that -- have a camaraderie that I did not

11 find in private practice amongst a large group of

12 physicians.

13 And so the chairman of the department of

14 neurosurgery, still the chairman of neurosurgery,

15 saw me at a meeting in early 2004, and he -- we

16 trained together at the University of Southern

17 California, and he asked me if I would be

18 interested in coming over.

19 I had been on call every other night at

20 St. Vincent's for -- since 1997 and I was pretty

21 exhausted. So it seemed like a nice lateral move.

22 **Q. And you stayed a year?**

23 A. I stayed a year. I promised a year,

24 stayed a year.

25 **Q. So it was a set deal when you left that**

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1 **you would be there one year only?**

2 A. Yeah. And that was bilateral. At the
3 end of a year it was, do I want to continue to
4 stay, or do they want to continue to have me? And
5 they asked me to stay. And I had decided that the
6 academic practice actually wasn't for me and
7 wanted to return to private practice.

8 **Q. Why was academic practice not for you?**

9 A. Well, during that year I performed or
10 supervised fellows, and therefore, participated in
11 the surgery on about 550 cases in one year, which
12 is a large amount. And I found that observing
13 unskilled hands working, in particular, in some of
14 the complex spine, the interns, residents, created
15 more anxiety in me than any anxiety I ever had
16 from being exhausted.

17 So it was quite difficult for me to
18 actually watch and teach unskilled hands to do the
19 surgeries without being petrified that some
20 disaster was going to occur.

21 **Q. So when you left to go to Utah, were your
22 privileges at West Park, Billings Clinic, and
23 St. Vincent essentially suspended or revoked?**

24 A. Well, my credentials at the Deaconess
25 Billings Clinic ended in 2002, and I just did not

1 answer that.

2 **Q. Why did you not reapply for your
3 credentials at Billings Clinic in 2002?**

4 A. Well, again, I was in a practice with
5 four other neurosurgeons, none of which who had
6 credentials at Billings Clinic. And so I was on
7 my own. I think Miss Trier testified -- or maybe
8 she didn't, I don't recall -- but if I wanted to
9 do a case at the Billings Clinic, I had no set
10 operating time.

11 They would call and -- or I would call,
12 and we would want to put a case on. And it tended
13 to be Friday afternoon or Friday evening where I
14 would do a case and, therefore, be responsible for
15 the patient during their -- during the patient's
16 entire admission.

17 All my other partners at St. Vincent's
18 had given up their credentials. So I was the only
19 neurosurgeon that wasn't employed by Billings
20 Clinic, credentialed. So I didn't -- there wasn't
21 that many cases, and I had no interest in adding
22 to my call responsibility by having patients in
23 two hospitals, so I just electively didn't
24 reapply.

25 **Q. Were you doing procedures at Northern**

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1 recredential there, sometime in 2002. So when I
2 left for Utah, I was credentialed at
3 St. Vincent's -- actually, one of St. Vincent's
4 sister hospitals is -- or maybe it's part of their
5 network -- is out in Miles City, and I failed to
6 mention that earlier.

7 So I was credentialed at Miles City
8 Hospital from '97 through the whole time that I
9 was credentialed at St. Vincent's. So that's the
10 leave of absence. Say, I will not be here
11 actively practicing, participating in your call.
12 I am going on a leave of absence. It's for this
13 medical reason -- this work reason. I didn't have
14 a medical problem.

15 And so those -- West Park Hospital didn't
16 do anything; said, Come back whenever you want.
17 But St. Vincent's said, through the medical staff,
18 said, Okay. Here's your leave of absence.

19 **Q. Do you think you left St. Vincent's on
20 collegial terms with the other physicians and
21 administration?**

22 A. I had friends at St. Vincent's when I
23 left who I considered colleagues. Administration,
24 I'm not sure that I have ever been collegial with
25 administrators in hospitals, but -- so I can't

1 **Wyoming Surgery Center before going to Utah in
2 2004, '5?**

3 A. Yes.

4 **Q. Okay. What percentage of your case
5 volume would have been outpatient at Northern
6 Wyoming Surgery Center versus inpatient at
7 St. V's?**

8 A. Well, before I went to Utah, my case
9 volume was -- whether they were in- or outpatient,
10 and I would do plenty of patients at St. Vincent's
11 that were done in what either an outpatient or
12 what we call a 23-hour observation capacity. So
13 maybe I'll ask you to clarify.

14 I went down to Wyoming one or two days a
15 month before I went to Utah and operated
16 specifically with Dr. Steve Emery, who is an
17 orthopedic spine surgeon and we collaborated on
18 cases at either the Northern Wyoming Surgical
19 Center -- I don't recall when it opened, but
20 whenever it opened -- and at West Park Hospital.

21 **Q. Whether it was a 23-hour procedure or
22 more extensive than that, generally, you were
23 doing two days a week either at West Park or the
24 Surgery Center, as I understand it?**

25 A. Two to three days a month.

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1 **Q. Okay. Two to three days a month. So you**
2 **were still doing the majority of your procedures**
3 **in Billings at that point?**
4 A. Yes.
5 **Q. How did you know Dr. Emery?**
6 A. When I -- he was in Northern Wyoming in
7 1996-'97. In my youthful aggressive marketing,
8 self-marketing, or practice marketing campaign, I
9 met him. I guess I solicited an audience with him
10 down in Wyoming and met him there and developed a
11 working relationship. So that I was his
12 preferential surgeon for cases that were too
13 complex for him to do in Northern Wyoming, and he
14 began referring cases to me, as did most of the
15 rest of the community back in 1997.
16 And I think he actually was the one who
17 asked me if I would be interested in coming down
18 and doing some of those cases with him. He
19 equally credentialed at St. Vincent's. I can't
20 tell you when, but sometime in '98, '99, 2000.
21 And once or twice a month, he would
22 actually come up to St. Vincent's, and I was his
23 sponsoring physician, and we would do cases
24 together up at St. Vincent's.
25 **Q. So Dr. Emery was credentialed at**

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1 **St. Vincent in some '98-2000 range?**
2 A. Yes.
3 **Q. Did you have an office -- or I'm calling**
4 **an office -- a clinic in Cody?**
5 A. During that time?
6 **Q. Yes.**
7 A. I actually don't recall if we had a
8 standalone office. I would see patients -- the
9 hospital itself had some clinic space that, I
10 think, that we paid \$50 a day to utilize.
11 So if I went down and was operating, I
12 would see patients before, in between, maybe
13 afterward. And so I don't believe we invested in
14 a standalone clinic, but I would see patients in a
15 clinical setting, but sublease the location.
16 **Q. Dr. Emery, his clinic was in Cody?**
17 A. Yes.
18 **Q. So when he referred things, I think you**
19 **said he referred cases to you --**
20 A. Yes.
21 **Q. -- would he refer those people to**
22 **Billings and they would come see you here?**
23 A. Or I would see them there.
24 **Q. Did Dr. Emery also have credentials at**
25 **Billings Clinic during that time frame?**

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1 A. I don't know.
2 **Q. Do you know how long he kept his**
3 **credentials at St. Vincent?**
4 A. I don't. I believe -- I believe when I
5 went to Utah, he still -- I may be misspeaking. I
6 think he still went to St. Vincent's and did
7 surgeries with other surgeons, but I may be
8 mistaken.
9 **Q. Did he have to participate in call at**
10 **St. Vincent's?**
11 A. No.
12 **Q. How did you meet Dr. Schmidt?**
13 A. Well, Dr. Emery, Dr. Schmidt were in
14 practice together. So Dr. Schmidt's wife, also
15 Dr. Schmidt, Caety Schmidt, is an anesthesiologist
16 who also does or did pain management injections.
17 So I believe my first introduction was
18 with Dr. Caety Schmidt, and I actually think it's
19 because I took care of her father, who is a
20 retired physician that had a brain issue and
21 needed some surgery.
22 And in '97, she came up to Billings and I
23 saw him and took care of him. So I think that's
24 how I established a relationship with the
25 Schmidts.

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1 **Q. Was Dr. Schmidt someone that you**
2 **collaborated with on procedures prior to 2005?**
3 A. We didn't do procedures together. He
4 doesn't do spine surgery. So he would refer
5 cases, or I may refer cases to him, but....
6 **Q. So when you were talking about Dr. Emery**
7 **earlier, he was doing some spine work? Those were**
8 **the types of cases you were collaborating with**
9 **Dr. Emery on?**
10 A. Yes. A fair amount, actually, did a fair
11 amount of spine work.
12 **Q. So when do you think you first met**
13 **Dr. Schmidt? Did you say, like, '97?**
14 A. Yes.
15 **Q. And what about Dr. Winzenried? When did**
16 **you first meet him?**
17 A. I don't recall if I met him before I went
18 to Utah or after I came back. I can't tell you
19 for sure.
20 **Q. Did you have social relationships with**
21 **Dr. Emery or Schmidt or Winzenried versus just**
22 **professional relationships?**
23 A. I'm not a particularly social person, so
24 I think we attended Christmas parties together.
25 But short of that -- we had extensive professional

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1 relationships.

2 **Q. How did you meet Mr. Baker?**

3 A. He was, or is still, I don't know, a

4 nurse anesthetist at Powell Hospital. And I

5 became credentialed at Powell Hospital in 2005, so

6 he was the anesthesia provider at Powell Hospital

7 where I was doing a significant number of cases,

8 and he provided anesthesia.

9 **Q. Would he be employed by the hospital, or**

10 **was he in an independent group or on his own?**

11 A. I think he was employed.

12 **Q. What about Mr. Mattson? How did you meet**

13 **him?**

14 A. Through Mr. Baker.

15 **Q. When was that, do you know?**

16 A. I only met Mr. Mattson once, and I think

17 Mr. Baker had arranged for him when the Meridian

18 offerings were coming out and the OMNI project was

19 being developed at some point. I don't recall.

20 Mr. Baker, anticipating the need for

21 anesthesia providers, I believe, hired Mr. Mattson

22 and was paying him. And he brought Mr. Mattson,

23 and I think his wife, to a dinner over here in

24 Billings at some point in 2011, or maybe it was

25 2010. That's the only time I've ever met him.

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1 **Q. Okay. So as far as you know, Mr. Baker**

2 **had hired Mr. Mattson?**

3 A. I believe so.

4 **Q. So let me go back to our timeline here.**

5 **2005, you come back from Utah?**

6 A. Yes.

7 **Q. What did you do when you came back? And**

8 **did you come to Billings or Cody?**

9 A. Well, when I was in Utah, prior to

10 returning, Drs. Schmidt, Emery, and Biles all

11 asked me to come and see patients in Northern

12 Wyoming, who -- I mean, I had a very large

13 practice for a very long time. So there were lots

14 of patients to see.

15 So I actually started doing an outreach

16 clinic while in Utah, February or March, perhaps,

17 of 2005, where I would go back up to West Park

18 Hospital, I believe, see patients, full clinics,

19 one or two days a month, and try to -- for

20 whatever reason. I mean, they were all

21 spine-related patients.

22 Some of those patients I brought back to

23 Utah to the University for complex spine

24 reconstruction; some I sent to Dr. Emery. But it

25 didn't take long before they asked me to come and

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1 see patients, and then would I mind spending a day

2 operating.

3 So by late May or June of 2005, I was

4 back operating in Wyoming, with particularly

5 Dr. Emery, and doing four or five surgeries each

6 time I visited, plus a full clinic day. So I had

7 that to contrast my academic practice with, and

8 the lure from the orthopedic surgeons in Wyoming

9 has brought me back to the area.

10 **Q. So when you stopped completely with your**

11 **academic endeavor in Utah, did you move to**

12 **Billings or did you move to Cody?**

13 A. Well, we had a house here and still have

14 a house in Billings. And at first -- my wife and

15 children, actually, only joined me for about four

16 months. My children were in the school system

17 here. So even when I was in Utah, my wife and

18 children stayed here at this school.

19 And then the last four months in Utah,

20 they did move down to just north of Salt Lake.

21 She didn't particularly like it either; she wanted

22 to come back to Billings. And so in 2005, we came

23 back to Billings and began looking for a house or

24 property in Northern Wyoming.

25 **Q. Did you join a group when you came back**

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1 **in Billings, or were you on your own? How did**

2 **that work as far as your surgical practice?**

3 A. Solo practice.

4 **Q. When you came back, did you obtain**

5 **privileges at either St. Vincent or Billings**

6 **Clinic?**

7 A. No. I was still credentialed at

8 St. Vincent's, but on an official leave of

9 absence. Dr. John Middleton was the chair of

10 surgery and I believe medical staff president and

11 I knew him well.

12 And I talked to him and -- I don't know

13 if the policy has changed now, I don't think it

14 has, but what Dr. Middleton told me is if I want

15 to come back and go through the recredentialing

16 process, I needed to have -- be part of a group.

17 I needed to either join the group that's there or

18 bring in another neurosurgeon and reestablish

19 credentials and go back on active medical staff.

20 **Q. Are you willing to do that?**

21 A. I'm sorry?

22 **Q. Were you willing to do that, to**

23 **recredential and go back on active staff?**

24 A. I had very little interest in going back

25 to being an active staff at St. Vincent's when I

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1 had the opportunities that presented themselves in
2 Wyoming, where I did not have to take any trauma
3 call.

4 **Q. Did you consider applying for privilege**
5 **at Billings Clinic when you came back?**

6 A. I did not reconsider that. Billings
7 Clinic, there was a time -- and I was in town
8 during that time -- when many of the independent
9 physicians also had credentials there. But the
10 Billings Clinic consolidated and made all their
11 physicians employees.

12 And there was a huge egress in 2003-2004,
13 I believe, where most of the independent
14 physicians gave up their credentials.
15 Geopolitical forces and contention between the
16 hospitals, it goes back 50 years. It's pretty
17 significant.

18 So when I came back, I did not -- I don't
19 recall if I assumed, or if I talked to the medical
20 staff office, whether I needed the same scenario.
21 I mean, if I need a partner before I apply.

22 St. Vincent's policy was and perhaps
23 still is that a specialty physician cannot cover
24 their own practice 365 days, and therefore, they
25 need to be part of a group. So they don't allow

1 suspension or change in privileges at any
2 facility.

3 **Q. Have you ever had a denial of privileges**
4 **at any facility?**

5 A. I have not.

6 **Q. So at this point you're a solo**
7 **practitioner, and you're doing all of your**
8 **procedures in Northern Wyoming?**

9 A. At West Park Hospital, Powell Hospital,
10 and the Northern Wyoming Surgical Center, yes.

11 **Q. Did you have an ownership interest in**
12 **Northern Wyoming Surgical Center?**

13 A. Yes.

14 **Q. How much did you own?**

15 A. Well, a family limited partnership that
16 I'm part owner in owned two shares.

17 **Q. Okay. And is that family limited**
18 **partnership, is that different than the Schneider**
19 **Limited Partnership that is a Claimant here in**
20 **this case?**

21 A. It's the same.

22 **Q. And I'm just going to call it SLP.**

23 A. Agreed.

24 **Q. Okay. SLP owned two shares in that**
25 **Northern Wyoming Surgery Center?**

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1 solo practitioners to be credentialed at their
2 facility. And I believe I got that in writing
3 from Dr. Middleton.

4 And I'll just finish, so save you a
5 question. My credentials actually expired. I was
6 still on a leave of absence. My credentials
7 actually expired in the beginning of 2006, so I
8 was already back practicing in Northern Wyoming.
9 And my credentials expired the beginning of 2006
10 with St. Vincent's.

11 **Q. You said you thought Dr. Middleton had**
12 **sent that policy to you in writing; is that right?**

13 A. I believe so.

14 **Q. Is that something that you believe you**
15 **produced in this case?**

16 A. I don't think I've seen that for a long
17 time, but I may be mistaken.

18 **Q. So have you ever had your privileges at**
19 **any facility suspended or revoked?**

20 A. My privileges were suspended temporarily
21 when I had a -- in Wyoming when my license was
22 suspended in the end of January 2012 until, I
23 believe, the first week in March of 2012. And
24 then they were reinstated. So independent of
25 that, I have never had any revocation or

1 A. Yes.

2 **Q. What percentage ownership would that**
3 **equate to?**

4 A. I think there were a hundred outstanding
5 shares, so 2 percent.

6 **Q. 2 percent. And when did you acquire that**
7 **interest?**

8 A. I did not but Schneider Limited
9 Partnership did -- well, I -- I guess I should
10 rephrase that. Schneider Limited Partnership came
11 into being in 2007, so I might have, or some other
12 entity might have, I think in 2002, acquired two
13 shares.

14 **Q. So you had the shares in 2002. Did your**
15 **ownership percentage ever change from 2 percent?**

16 **MR. CLARK:** Objection. When you say
17 "you," are you referring to SLP?

18 **Q. (BY MR. CLAYTON) Fair enough. The**
19 **entity that owned the shares, which I believe**
20 **you've testified was maybe an entity different**
21 **than SLP; is that correct?**

22 A. In the beginning.

23 **Q. In the beginning. All right. So at what**
24 **point did SLP acquire the shares? In 2007?**

25 A. Yes.

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1 **Q. And you don't know the name of the entity**
2 **that SLP got the shares from?**

3 A. I don't recall. And it could have been
4 me. It could have been -- or it could have been
5 Northern -- my practice name is Northern Rockies
6 Neuro-Spine when I came back, 2005. I just don't
7 recall.

8 But in 2007 those shares were put into
9 Schneider Limited Partnership, and Schneider
10 Limited Partnership owned those shares until they
11 sold it.

12 **Q. When did Schneider Limited Partnership**
13 **sell those?**

14 A. I believe it was the beginning of 2013.

15 **Q. Was that a voluntary sale by Schneider**
16 **Limited Partnership?**

17 A. It was.

18 **Q. Who were the shares sold to?**

19 A. Back to the Surgery Center.

20 **Q. And was the ownership percentage for SLP**
21 **2 percent from 2007 until they were sold in 2013?**

22 A. Yes.

23 **Q. Was Dr. Emery an owner in the Northern**
24 **Wyoming Surgery Center?**

25 A. I believe so.

1 back in 1992 or '93. Now, that was a HealthSouth
2 facility, and now it's an independent facility,
3 Northern Rockies Surgical Center.

4 So St. Vincent's has a surgery center,
5 and I was actually actively practicing on staff in
6 2003-2004 when they built the Yellowstone Surgical
7 Center.

8 The orthopedic surgeons that own a
9 majority of that specifically excluded all
10 neurosurgeons from becoming investors in that
11 surgery center. So created a bit of acrimony
12 within the independent medical community, or
13 people who wanted to invest but were prevented
14 from doing so, mostly because of the orthopedic
15 surgeons' desire and their -- so that's a surgery
16 center. And I think even Deaconess Billings
17 Clinic now has a surgery center.

18 So the answer to your question is, I have
19 always had interest in, since 2002, to be able to
20 do procedures in Billings in an outpatient surgery
21 center.

22 **Q. Were you ever involved in a lawsuit**
23 **against Yellowstone Surgery Center, or any entity**
24 **that you had an ownership interest in, was it**
25 **involved in a lawsuit against Yellowstone Surgery**

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1 **Q. Do you have any idea what his ownership**
2 **percentage was?**

3 A. I don't.

4 **Q. Did you have any ownership interest, or**
5 **did SLP have any ownership interest, in any other**
6 **facilities in Northern Wyoming?**

7 A. No.

8 **Q. Did SLP or you individually have any**
9 **ownership interest in any other Surgery Center at**
10 **any time?**

11 A. No. Other than OMNI.

12 **Q. Right. Fair enough. OMNI,**
13 **Northwestern --**

14 A. Northern Wyoming.

15 **Q. Northern Wyoming Surgery Center. Excuse**
16 **me. Any others?**

17 A. No.

18 **Q. When did you, you individually -- I think**
19 **is probably the right way to ask this -- come up**
20 **with the idea of a surgery center in Billings?**

21 A. Well, there are surgery centers in
22 Billings, so there's a Northern Wyoming --
23 sorry -- Northern Rockies Surgery Center. That's
24 freestanding, standalone, and is the -- was formed
25 in Billings, I believe, back in -- I'm sorry --

1 **Center?**

2 A. I don't think so, no.

3 **Q. So you said you always had an interest in**
4 **doing or practicing in a surgery center, I think**
5 **is what you said. And you had done some.**

6 A. In Wyoming.

7 **Q. In Wyoming, right. But obviously, we're**
8 **here today about a lawsuit about a surgery center**
9 **that's sitting somewhere over there. All right.**
10 **It's not open, OMNI. And I've looked at a lot of**
11 **documents that you have produced and other parties**
12 **have produced, and what strikes me is that the**
13 **OMNI project was something that you spearheaded**
14 **and were very enthusiastic about. And it was a**
15 **multiphase project in your mind, including perhaps**
16 **a surgical hospital. Is that a fair statement?**

17 A. That's an accurate assessment.

18 **Q. Okay. And so I'm just trying to get some**
19 **background here. When did you first start**
20 **pursuing the possibility of a surgery center here**
21 **in Billings?**

22 A. Well, so in 2005, when I returned, I was
23 very active in reestablishing my practice. And so
24 2005, '6, '7, '8 time frame, I became credentialed
25 at Sheridan. So I was credentialed and operating

<p style="text-align: right;">Page 53</p> <p>1 in four different facilities and really couldn't 2 do any more. So -- and very, very busy, big 3 practice. 4 There is significant market shift from a 5 third-party payer's perspective, and its impact on 6 my practice occurred -- or I should say a 7 threat -- in late 2008/2009. And that was -- I 8 should say that 20 percent or so of my practice 9 was Blue Cross Blue Shield of Montana, so that's a 10 significant revenue. And 20 percent of my 11 patients were BCBS Montana. 12 And in late 2008-2009, they either 13 changed or made physicians who were part of their 14 preferred provider network aware that if they 15 weren't actively practicing in Montana, then they 16 were no longer going to be part of the PPO 17 network. 18 So although I had discussed getting 19 credentialed at Northern Rockies Surgery Center 20 2008-2009, with the management structure there, 21 explained to me that unless I was on active 22 medical staff at the hospitals, that wasn't 23 possible. 24 And so the impetus for developing a 25 standalone project that we're now calling OMNI</p>	<p style="text-align: right;">Page 55</p> <p>1 residents, and I would see them and bring them to 2 Wyoming hospitals. And I would sell that 3 conceptually, because we were efficient, it was 4 economically feasible, all the marketing things. 5 And that was very successful for me for a long 6 period of time. 7 But with changes in third-party 8 reimbursement and expanding marketplace in 9 Billings going from, I think, 65,000, when I moved 10 here, 50,000 when I moved here in 1997, to 110-, 11 120,000, Bakken oil fields. There's a lot of 12 market forces that continually reiterated the 13 perception to the regional community that Billings 14 is the place to go for your medical care. And the 15 hospitals have enjoyed that. 16 So from my perspective, creating a center 17 in Billings would meet many of the objectives. 18 For me personally, maintain the preferred provider 19 networks. 20 We have documents that Mr. Clark has, or 21 perhaps you submitted, my communication in 2009 22 and 2010 with Blue Cross Blue Shield of Montana. 23 But it was also to benefit from the 24 goodwill of St. Vincent's and Deaconess Hospital 25 that were beating the proverbial regional bushes</p>
<p style="text-align: right;">Page 54</p> <p>1 came out of a -- several realizations. One was 2 that, at least for me personally, I would 3 potentially be looking at a 20 percent drop in 4 revenue, just from my Blue Cross Blue Shield of 5 Montana patients, if I was dropped out of their 6 preferred provider network because I wasn't 7 operating in Montana. So that was one significant 8 factor. 9 The second is, I mean, demographics. 10 When I was operating in Wyoming, I essentially did 11 the reverse of what every other physician was 12 doing. Physicians in Billings frequently go to 13 throughout Montana and Northern Wyoming and do 14 what are called outreach clinics. So they would 15 go -- we have, even to this day, physicians who 16 are at one of these hospitals goes to Cody, sees 17 patients. If they need surgery, they don't do 18 them in Wyoming. They bring them back to the 19 Billings hospital. So that revenue draws back to 20 Billings. 21 And from 2005 through the end of my 22 surgical practice in 2013, much to the dismay of 23 perhaps the hospitals and my competitors, I 24 reversed that. Approximately 75 to 80 percent of 25 my patients from 2005 to 2013 were Montana</p>	<p style="text-align: right;">Page 56</p> <p>1 and saying, Come to Billings for your medical 2 care. So developing a center in Billings had -- 3 there would be strong market draw. And that 4 includes not only for patients, but for physician 5 recruitment. It's much easier to recruit a 6 physician to a community like this than it is a 7 rural community in Northern Wyoming. 8 Q. You said 20 to 30 percent, I think, of 9 your revenue was tied to Blue Cross Blue Shield of 10 Montana. Did I get that right? 11 A. Yes. About 25. 12 Q. What was the other 75 made up of? 13 A. Approximately 20 percent Medicare, maybe 14 a little less, and the rest were EBMS and the 15 other big insurance companies, or multiple small 16 insurance companies and collectives. 17 Q. Was there a second largest private payer 18 for your revenues? 19 A. I don't think so. I think it was a 20 smattering of all the smaller. 21 Q. And so I'm clear, the only way that you 22 could be on the preferred provider network is if 23 you, I assume, had privileges at one of the two 24 hospitals here? 25 A. Or --</p>

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1 **Q. Or Yellowstone or Ortho Montana, perhaps?**

2 A. Well, Ortho Montana is a group.

3 **Q. Okay.**

4 A. They're an orthopedic group. So I don't
5 mean to correct you, but there's no privileges
6 there.

7 **Q. No.**

8 A. But anyway, so it would be where I was
9 practicing. So, in fact, I still had courtesy
10 privileges until 2011, I think, at Holy Rosary in
11 Miles City. But that wasn't good enough for Blue
12 Cross Blue Shield of Montana. Essentially, if I
13 was seeing a BCBS Montana patient, they wanted all
14 care, including surgical care, to be done in
15 Montana.

16 **Q. How far is Miles City?**

17 A. 150 miles east. And although it has a
18 single operating room, there's no support for
19 spine surgeries.

20 **Q. Okay.**

21 A. And just to clarify, I was a BCBS
22 provider. So from '97 to 2010, I was on a
23 preferred provider network. So from 2005 to 2010,
24 I actually slipped under the radar, and I was --
25 BCBS Montana finally figured out they were paying

1 therapy related to musculoskeletal disease.

2 So that was a desire of mine, and that
3 was the concept behind the OMNI, which stands for
4 Orthopedic Musculoskeletal Neurological Institute.
5 So that was the concept.

6 In either 2008 or 2009, Teresa had come
7 with me and we looked at several small facilities,
8 trying to mirror what the -- perhaps a plastic
9 surgeon would do, just having a single operating
10 room. And we looked at different real estate,
11 prebuilt real estate locations, and weren't
12 impressed. Plus, to do this, Teresa Trier, who
13 was my practice administrator, had no skill sets
14 in developing a surgery center.

15 So we attended a Chicago meeting put on
16 by Becker Reviews (phonetic) or something. I
17 don't recall what. But, anyway, we attended this
18 trade show that was three or four days. And there
19 was lectures all day relative to these concepts of
20 standalone surgery centers. And then met with two
21 or three different vendors who provided the
22 management services for those centers.

23 **Q. Okay. And what vendors did you talk to?**

24 A. Well, I think we talked to three in
25 total, and I believe all three -- and I'm

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1 me more money to do the surgeries than they were
2 paying their other providers and asked me what my
3 plans were.

4 **Q. You say they were paying you more money
5 than the other providers. Why would that be?**

6 A. I believe the reimbursement in Wyoming is
7 about 10 percent higher than it is in Montana.

8 **Q. Is that just a function of the fact that
9 there's just not as much competition for the
10 payers to negotiate with?**

11 A. I really can't tell you.

12 **MR. CLAYTON:** All right. We'll take a
13 quick minute break here.

14 (Whereupon, a recess was taken.)

15 **Q. (BY MR. CLAYTON) So what time frame,
16 year, month, basically, did you push forward with
17 this concept of OMNI?**

18 A. So you met Teresa Trier in her
19 deposition. And we talked about from 2007, 2008,
20 at least the concept of a vertically integrated
21 multidisciplinary center that would meet what
22 currently is called -- what's the nomenclature --
23 well, that basically would be able to take a
24 single disease entity and treat it from both
25 making the diagnosis through the end of its

1 including Meridian Healthcare in that -- all three
2 came out for a brief interview or sent somebody
3 out for a brief interview. Could have been just
4 two.

5 **Q. And, I'm sorry. When was this
6 conference, do you think?**

7 A. I want to say 2009, but I'm not exactly
8 sure.

9 **Q. Spring? Summer? Fall? Do you recall?**

10 A. I think I remember pumpkins. I think it
11 was the fall of 2009.

12 **Q. But you don't remember any of the other
13 Meridian-type entities that came out and
14 interviewed?**

15 A. There was at least one other, and I do
16 not remember their name.

17 **Q. Okay. And when were those interviews?**

18 A. Shortly thereafter. So would have --
19 2009 -- it would have been within the six months
20 that followed that meeting.

21 **Q. So was it still in 2009, or were you in
22 2010? You're not sure?**

23 A. Not sure.

24 **Q. When did you decide that you would
25 proceed with Meridian? Or when did you or SLP**

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1 **decide you were going to proceed with Meridian as**
2 **the company that would help you with this concept?**
3 A. Well, Meridian's front man, I guess -- if
4 that's derogatory, apologize to Chris Suscha for
5 me -- but Chris Suscha is their -- some function
6 of -- he's the person who came out. He's a very
7 gregarious individual. And we met with him a
8 couple of times, I believe. He flew out from
9 wherever -- Tennessee, I'd assume. And we met
10 with him a couple of times, talked to him about
11 the concept.
12 And after talking to him versus at least
13 one of these other groups we certainly liked the
14 personality, Mr. Suscha's personality, and what
15 Meridian represented in this project.
16 And so once that occurred, Mr. Suscha
17 brought -- I think it was either on the second or
18 third trip out, before we signed any contracts or
19 put in any money -- brought a developer by the
20 name of Mark Samples. So really they traveled as
21 a team.
22 And Mr. Samples was there for all of the
23 conversations and discussions as to not only what
24 Meridian would offer, but really, then, what it
25 would entail if we were to actually do a

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1 design-built.
2 **Q. And Mr. Samples was not a Meridian**
3 **employee, was he?**
4 A. No. Samples Properties.
5 **Q. And Meridian was not an investor in the**
6 **real estate; is that right?**
7 A. I don't know.
8 **Q. Were you the manager for ONI, LLC, an**
9 **officer for ONI Realty, LLC?**
10 **MR. CLARK:** Objection. At what point in
11 time?
12 **Q. (BY MR. CLAYTON) Okay. Prior to January**
13 **1st of 2013.**
14 A. I was on the Board for ONI Realty, LLC.
15 **Q. Okay. And being on the Board, you didn't**
16 **know if Meridian Montana or Meridian Surgical**
17 **Partners was an investor in ONI Realty, LLC?**
18 A. I don't recall.
19 **Q. You don't recall one way or the other?**
20 A. Correct.
21 **Q. Okay. So you said you talked to**
22 **Mr. Samples and then Mr. Suscha?**
23 A. First Suscha and then Samples.
24 **Q. Fair enough. At what point did it kind**
25 **of get a little further down the road in terms of**

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1 **we may be able to do something with this**
2 **opportunity here?**
3 A. Well, based upon what those two gentlemen
4 were representing, the -- they certainly were
5 supportive of the concept. And they requested --
6 not "they," but Mr. Suscha, I believe, requested
7 some of my practice numbers: What kind of cases
8 did I do? What was done in a surgery center
9 versus a hospital? And I believe Teresa Trier
10 provided that to Mr. Suscha fairly early in that
11 process, which I have to assume was either late
12 2009 or early 2010.
13 **Q. Okay. Were you working on this concept**
14 **somewhat on a, for lack of a better term, dual**
15 **track? In other words, talking with Meridian, but**
16 **also considering doing this on your own -- SLP**
17 **doing it on its own?**
18 A. In building a surgery center on my own?
19 **Q. Yes.**
20 A. That was not a consideration since I did
21 not have the skill or experience to manage a
22 surgery center.
23 **Q. All right. Okay.**
24 **MR. CLAYTON:** I'm going to mark as an
25 exhibit to your deposition, it is a document that

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1 is Bates-stamped Schneider 14.
2 **EXHIBITS:**
3 (Exhibit No. 1 marked for
4 identification.)
5 **Q. (BY MR. CLAYTON) Hand that to you,**
6 **Dr. Schneider, and ask if you recognize that**
7 **letter that we've marked as Exhibit 1.**
8 A. I do recognize it.
9 **Q. Okay. So in February 26 of 2010, you**
10 **were having communications, it looks like, with**
11 **Advanced Care Hospital of Montana. And I'm**
12 **looking at -- if you'll look with me -- it's the**
13 **third paragraph from the top that begins, The**
14 **postoperative patients, be they Medicare or**
15 **private insurance, would on many occasions benefit**
16 **from short hospital stays, and we would like to**
17 **establish a protocol for which we would transfer**
18 **the patients following surgery to your facility,**
19 **once they have been stabilized from an anesthetic**
20 **perspective.**
21 **Do you see where I'm reading that?**
22 A. I do.
23 **Q. What was the purpose of this letter?**
24 A. I was trying to solicit their interest in
25 the anticipated OMNI project, believing at that

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1 point in time that the Advanced Care Hospital
2 could provide support, if we needed it, and needed
3 to move a patient from a surgery center into a
4 facility.
5 **Q. Would this be done under a transfer**
6 **agreement between the Surgery Center and Advanced**
7 **Care?**
8 A. Well, that would depend upon what
9 Advanced Care wanted. If they required a transfer
10 agreement, then it would depend upon -- then it
11 would require.
12 **Q. Okay. Did you ask Advanced Care at some**
13 **point for a transfer agreement?**
14 A. No. As it says in the letter, I
15 anticipated applying for active staff at their
16 facility, believing that I could just take care of
17 my patients, if there was one at a surgery center
18 in some future date that I needed to transfer
19 there. So I did not ask them for a transfer
20 agreement.
21 **Q. Okay. Now, were you doing that for your**
22 **solo practice as it existed on February 26, 2010,**
23 **or in relation to the envisioned OMNI Surgery**
24 **Center?**
25 A. In relation to the envisioned OMNI

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1 Surgery Center.
2 **Q. And why were you doing that in**
3 **February 26 of 2010? Do you agree with me that at**
4 **that point there had been no documents signed,**
5 **there had been no money exchanged at that point?**
6 A. For the OMNI project?
7 **Q. Right.**
8 A. I would agree with that.
9 **Q. So why, on February 26, are you doing**
10 **this with relation to this OMNI project?**
11 A. Well, as I testified to earlier, I had
12 interest in doing outpatient surgeries in Billings
13 from 2008, 2009. I had talked to Northern Rockies
14 Surgery Center, a standalone facility, who
15 indicated to me I needed to become active medical
16 staff at a hospital if I wanted to utilize their
17 facility. So in case there is -- a transfer is
18 necessary, the patient could go to an acute-care
19 facility.
20 When I met with these folks at Advanced
21 Care, my initial interpretation is their facility
22 would meet the criteria for the Center Medical
23 Services, CMS, to allow me to do exactly what
24 we're talking about, allow me to credential at the
25 Northern Wyoming Surgical Center, or any surgery

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1 center, and have a backup facility in case I
2 needed to transfer -- in case I needed to move my
3 patients, transfer them to a higher level of
4 acuity for a longer stay. As it turns out, that
5 was a misassumption on my part.
6 **Q. The Northern Rockies Surgery Center, when**
7 **did you have that discussion that you were just**
8 **referencing?**
9 A. With Northern Rockies Surgery Center?
10 **Q. Yes.**
11 A. 2008, 2009.
12 **Q. Okay. All right.**
13 **MR. CLAYTON:** Let's mark as the next
14 exhibit 2.
15 **EXHIBITS:**
16 (Exhibit No. 2 marked for
17 identification.)
18 **Q. (BY MR. CLAYTON) It's a document that**
19 **has been Bates-stamped Schneider 20 through**
20 **Schneider 22.**
21 A. Okay.
22 **Q. And actually, hold that thought.**
23 **MR. CLAYTON:** I want to mark as Exhibit 3
24 to your deposition what's been marked as Schneider
25 8 through Schneider 9.

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1 **EXHIBITS:**
2 (Exhibit No. 3 marked for
3 identification.)
4 **Q. (BY MR. CLAYTON) Let me hand you that.**
5 It's a letter dated January 21, 2010, it looks
6 like from Advanced Care Hospital -- or from you to
7 Advanced Care Hospital. So Exhibit 3 would have
8 preceded Exhibit 1, and I just wanted to get the
9 order back.
10 A. Okay.
11 **Q. All right. So taking a step back,**
12 **obviously, it looks like Exhibit 1, as we just**
13 **said, was sent after what we've marked as**
14 **Exhibit 3.**
15 But backing up, that third paragraph on
16 Exhibit 3, Schneider 8, sort of near the bottom,
17 it says, Relative to my interest in credentialing
18 at the Advanced Care Hospital, my specific
19 inquiries regarding admission policy. Is it
20 possible, should we have a 23-hour surgical
21 patient at our outpatient surgical facility that
22 requires transfer to an inpatient status, that
23 either neurospine or orthopedic surgeons would be
24 able to transfer this postoperative patient
25 requiring likely no more than an IV pain

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1 management and possibly one or two days of
2 antibiotics to your facility? We would request a
3 transfer agreement be in place once myself and at
4 least one of the orthopedic surgeons is
5 credentialed at your institution.

6 So when I was talking to you about a
7 transfer agreement, I actually was thinking about
8 this January 21st letter.

9 A. Okay.

10 **Q. This is not something that Meridian was**
11 **trying to facilitate; is that right?**

12 A. You mean me talking with Advanced Care
13 Hospital?

14 **Q. Right.**

15 A. No. This is on my own.

16 **Q. And, in fact, Meridian was not even aware**
17 **that you were talking to Advanced Care Hospital in**
18 **January of 2010, were they?**

19 A. I don't know if I had a conversation with
20 Meridian and told them that or not.

21 **Q. Do you recall anything specifically?**

22 A. I don't.

23 **Q. Okay. Now, let's talk about Exhibit --**
24 **let's go back to Exhibit 2. And I will ask you if**
25 **you look at Schneider 20, which is the first page**

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1 **of Exhibit 2, it says, From John to Teresa. I'm**
2 **presuming John would be you, Dr. Schneider; is**
3 **that right?**

4 A. Correct.

5 **Q. And it says, Attached is a letter to the**
6 **docs on the ONI. It's simple. Can you review for**
7 **grammar and ask Brit to send hard copy out this**
8 **week with "personal" and "confidential."**

9 The individuals that follow, are those
10 physicians that have expressed some interest in
11 perhaps being part of the project?

12 A. Some are. Some are the wives of
13 providers.

14 **Q. All right. Okay. Was Heather Baker, was**
15 **she a provider of any kind, or is that just his**
16 **spouse?**

17 A. His spouse.

18 **Q. Okay. But you told me Caety Schmidt was**
19 **actually an anesthesiologist, correct?**

20 A. Yes.

21 **Q. Allen Gee. Who was Allen Gee?**

22 A. Neurologist.

23 **Q. And Hugh Frasier?**

24 A. Podiatrist.

25 **Q. All right. And if you'll look with me on**

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1 **page 21, and if you look at the fifth paragraph**
2 **there and the last sentence, it says, The Advanced**
3 **Care Hospital located proximate to the ONI**
4 **facility will provide transfer care services.**

5 **Do you see that?**

6 A. I do.

7 **Q. Did this get sent to these individuals,**
8 **as far as you know?**

9 A. I would assume it did.

10 **Q. Okay. Based on this letter, then, would**
11 **these individuals, do you think, believe that a**
12 **transfer agreement was in place with Advanced Care**
13 **Hospital as of March 29, 2010?**

14 A. No. I believe that based upon --
15 although I represented that Advanced Care Hospital
16 would take -- would allow us to transfer patients,
17 there was no transfer agreement in place. And, of
18 course, based upon my letter to Advanced Care
19 Hospital, it was predicated on us becoming active,
20 credentialed providers at their facility.

21 **Q. I'm just asking you, though, based on**
22 **this representation, do you agree with me that**
23 **someone could read that and presume or assume that**
24 **there was a transfer agreement in place with**
25 **Advanced Care Hospital on March 29th of 2010?**

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1 A. I will not speculate as to whether they
2 would assume that there was a transfer agreement.
3 What it says is that they will -- Advanced Care
4 Hospital -- at that point in time, I believe
5 Advanced Care Hospital had represented that they
6 would consider taking our acute care patients.

7 **Q. I hear you. I'm just asking -- let's**
8 **just agree that it says, The Advanced Care**
9 **Hospital located proximate to the ONI facility**
10 **will provide transfer services.**

11 **Did I read that correctly?**

12 A. You did. And, of course, I
13 misrepresented what Advanced Care Hospital would
14 do.

15 **Q. Let me ask you to look at one more**
16 **thing real quick on Exhibit 2, if you don't**
17 **mind. On the last page of that letter, it says,**
18 **Schneider 22 at the bottom. And it says at the**
19 **top there, do you see where it says, On**
20 **April 14th, 2010, Meridian Healthcare partners'**
21 **CFO, and planning and development will be in Cody**
22 **for a dinner meeting to provide insight on this**
23 **project.**

24 **Is that April 14th, 2010, meeting**
25 **referenced in this letter, is that the sort of**

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1 **initial meeting with Meridian and potential**
2 **investors?**
3 A. I don't think so. I think that
4 Meridian --
5 **Q. I'm setting you aside. Obviously, you**
6 **said you talked to them, but any other of the**
7 **investors?**
8 A. I do not -- I don't recall if Chris
9 Suscha or Mr. Hancock or any other Meridian
10 employees met with any of the other surgeons,
11 potential investors, prior to that date. I think
12 that was when they had numbers that they could
13 talk intelligently about the potential project.
14 **Q. Okay.**
15 **MR. CLAYTON:** I'm going to mark as
16 Exhibit 4 to your deposition, it's a document that
17 is Bates-stamped MSPM 6799 through 6820.
18 **EXHIBITS:**
19 (Exhibit No. 4 marked for
20 identification.)
21 **Q. (BY MR. CLAYTON) I'll ask you --**
22 A. You want me to go through it all, or do
23 you want to point me?
24 **Q. I'll point you. But if at any point you**
25 **want to read the entire document, you're certainly**

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1 **free to do so.**
2 A. All right.
3 **Q. This appears to be to me, it is an e-mail**
4 **from Mr. Suscha to you on April 9th.**
5 A. Okay.
6 **Q. And when we just looked at Exhibit 2, I**
7 **believe the reference was to an April 14 meeting.**
8 **So what I'm wondering is if this e-mail, and then**
9 **the attachment or attached presentation, was**
10 **presented at that April 14th meeting?**
11 A. I presume it was. I don't recall the
12 specifics of that meeting.
13 **Q. Okay. Let me ask you to look at 6813,**
14 **Dr. Schneider. I'm referring, I think you know,**
15 **to the Bates numbers at the bottom, so 6813.**
16 **About halfway down there, they have reimbursement**
17 **rates.**
18 **Do you see that?**
19 A. I do.
20 **Q. And spine is 12,000, net of implant cost.**
21 A. Okay.
22 **Q. Is that a rate that was provided either**
23 **by you or Miss Trier in order for Mr. Suscha to**
24 **put together these projections?**
25 A. No.

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1 **Q. Why do you say no?**
2 A. These, I would assume -- so I'm
3 interpreting these documents, because you're
4 asking me to. So if I'm incorrect, sorry, but
5 these are facility fee rates. They're not
6 professional fee rates, which is separate.
7 So a facility generates its rate based
8 upon the utilization and it decides what it's
9 going to include or exclude. That's very much
10 different from what I know, which is my
11 professional reimbursement rate for doing a case.
12 **Q. Do you know how -- if that is a facility**
13 **rate, do you know how that facility rate of**
14 **\$12,000 would compare to the facility rate for**
15 **Northern Wyoming Surgery Center?**
16 A. I don't.
17 **Q. All right. If you'll look at 6817.**
18 A. (Witness complies.)
19 **Q. In the lower part it says, spine**
20 **contributes 28 percent of the volume and**
21 **82 percent of the revenue.**
22 **Was it your understanding that at least**
23 **in a model where you had one spine and then an**
24 **ortho and pain, that spine would be the most**
25 **significant generator of the revenue?**

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1 A. Well, in all surgicenters, spine is the
2 most significant generator of revenue for the
3 facility.
4 **Q. For the facility. Okay. And that's true**
5 **whether you're doing just general orthopedic-type**
6 **surgeries or joint surgeries, is spine**
7 **typically -- it's going to be the highest revenue**
8 **generator for a facility, a surgery center?**
9 A. I'm really -- I don't know. I know that
10 when I operate at places, they make a lot of money
11 for the facility. But I don't know what the
12 relative rates are compared to general
13 orthopedics.
14 **Q. Okay. Do you remember these scenarios or**
15 **similar scenarios being presented at that April**
16 **meeting?**
17 A. I really don't remember the details of
18 the April meeting.
19 **Q. You don't recall, I assume, then,**
20 **disagreeing with any of these projections at that**
21 **point?**
22 A. I don't recall if any of the projections
23 had any discussions. I don't recall.
24 **Q. All right. Do you recall ever looking at**
25 **the projections that were provided with the**

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1 **private placement memorandum?**
2 A. I'm sure I did at the time, but I haven't
3 looked at them in a long time.
4 **Q. Do you have any -- well, let me ask you**
5 **this: Did you have an accountant that reviewed**
6 **those materials for you?**
7 A. I may have. I know there was a legal
8 review of the documents, but I don't recall if
9 there was an economic review.
10 **Q. Do you know, is there a gentleman named**
11 **Larry, is it Hessler or Hensley, maybe?**
12 A. Heiser.
13 **Q. Heiser, okay.**
14 A. He's an accountant in Worland.
15 **Q. Okay. And if he was copied on e-mails**
16 **where those materials were attached, would you be**
17 **sending it to him to do an economic review, most**
18 **likely?**
19 A. Well, not for a feasibility of the
20 project, more for its impact on Schneider Limited
21 Partnerships. Mr. Heiser worked with my attorney
22 on estate planning from 2007 on. So relative to
23 the impact of a potential new revenue being
24 generated from the Surgery Center, I would want
25 Mr. Heiser aware, like, This is another revenue

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1 stream that we're anticipating.
2 But I would not ask him, Please review
3 these for accuracy and give me your opinion,
4 because I don't believe they have any skill sets
5 in medicine and whether these rates are accurate
6 and feasible.
7 **Q. Okay. Did you consult anybody about the**
8 **economic feasibility of OMNI?**
9 A. Well, physicians, amongst themselves,
10 talked about it.
11 **Q. Okay. Did anybody who reviewed those**
12 **projections -- let me ask you: Who did you talk**
13 **to about those projections?**
14 A. The individuals who were potential
15 investors: Dr. Emery; Dr. Schmidt; Dr. Winzenried;
16 at one point, Dr. Bo Johnson -- he's a general
17 surgeon -- I asked him of his interest;
18 Dr. Charlie Welch, also a general surgeon;
19 Dr. Allen Gee.
20 So there was conversations amongst the
21 physicians as to, What's the economic feasibility?
22 Is there enough work here to at least break even?
23 **Q. Okay. What did they say? What were your**
24 **discussions? Did people believe it would break**
25 **even?**

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1 A. I believe we all thought it would break
2 even and make a profit.
3 **Q. Okay. Would that have been true if you**
4 **weren't involved in the Center?**
5 A. Don't know.
6 **Q. Did anybody ever talk about that**
7 **possibility?**
8 A. Well, I know the Center thought -- I know
9 the Center purchased main man insurance for me in
10 case I were to become disabled, or whatever it
11 covered, I don't know. So I would assume they --
12 I was a significant player in the Center.
13 **Q. Would you have been the chief referral**
14 **source of pain management procedures to Mr. Baker?**
15 A. Not necessarily. We -- what's your time
16 frame?
17 **Q. 2010.**
18 A. Well, he was practicing or is still
19 practicing in Wyoming. And although I refer him
20 pain management procedures, I refer them to --
21 Dr. Caety Schmidt does them as well.
22 So Mr. Baker does a lot of pain
23 management procedures, and I believe he gets
24 referrals from many sources. I would not -- I do
25 not know if I'm an -- or if I was a major referral

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1 source to him.
2 **Q. You don't know. Okay. If the Center**
3 **opened, would you be the most significant referral**
4 **source for him, most likely?**
5 A. I can't answer that question. That's a
6 hypothetical.
7 **Q. Well, you knew he was coming on board as**
8 **an investor, true?**
9 A. Yes.
10 **Q. And you didn't think through that?**
11 A. I don't understand.
12 **Q. Well, you didn't think about how he would**
13 **be generating, you know, revenues and what that**
14 **would mean in terms of referrals from you to him?**
15 A. He was coming on as an anesthesiologist.
16 **Q. Right.**
17 A. We can't do any procedures, whether he's
18 generating revenue or not for the Center, I can't
19 do a case without an anesthesiologist. So
20 whatever additional revenues he might generate for
21 the Center for pain management is significant for
22 the Center and for him, but my main interest was
23 having anesthesia support so I could do my
24 surgeries.
25 **Q. And in terms of volume of procedures,**

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1 where would you have ranked in terms of volume of
2 procedures as compared to Dr. Emery or Schmidt or
3 Winzenried in 2010, let's say, or '11? Let's say
4 2011.
5 **MR. CLARK:** Object to the form of the
6 question.
7 **THE WITNESS:** Please clarify. Are you
8 asking me was I busier in 2010 and 2011 than
9 Dr. Emery and Schmidt or what are you asking?
10 **Q. (BY MR. CLAYTON)** Yeah. Let's say 2011.
11 A. Was I busier as a surgeon than they were?
12 **Q. Yeah.**
13 A. I don't know.
14 **Q. Do you know what their plans were in**
15 **terms of the Northern Wyoming Surgery Center, how**
16 **many procedures they would do there on a week**
17 **versus the OMNI campus?**
18 A. I don't.
19 **Q. Y'all didn't discuss that?**
20 A. I requested two -- we had a single
21 operating room that we had anticipated opening. I
22 requested two days a week.
23 **Q. Do you know how many days a week**
24 **Dr. Emery requested?**
25 A. So the other three surgeons, each

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1 requested a day a week.
2 **Q. Okay.**
3 A. And Dr. Emery is a spine surgeon, so he
4 would be doing spine surgery there.
5 **Q. Let's take 2010 or '11. Let's take '11.**
6 **How much spine surgery was he doing versus general**
7 **orthopedics?**
8 A. I have no idea.
9 **Q. You never talked to him about it?**
10 A. We had independent practices. We
11 collaborated on cases, and he seemed busy to me.
12 I'd see him around the operating room in the
13 different facilities. I knew he did spine
14 surgeries, some pretty big spine surgeries at the
15 Northern Wyoming Surgical Center, and big spine
16 surgeries at the West Park Hospital.
17 **Q. That wasn't something that, as investors**
18 **in the OMNI Surgery Center, that you all discussed?**
19 A. If you're talking about a static point in
20 time, when you talk about discussing, we had
21 operational expansions, bringing in other
22 surgeons, bringing in other primary care
23 providers, all of which would feed the surgeons,
24 but also feed everything else that was in the
25 Center: radiology, pain management, those -- this

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1 was operational expansion.
2 **Q. Well, I'm not sure I understand when you**
3 **say "operational expansion." That was the goal?**
4 A. Correct.
5 **Q. But initially, would you have opened with**
6 **you, Dr. Winzenried, Dr. Emery, Dr. Schmidt,**
7 **Mr. Baker, Mr. Mattson, right?**
8 A. Correct.
9 **Q. And so my question was, prior to the**
10 **Center being completed -- so let's say fall of**
11 **2011 -- you weren't having discussions with**
12 **Dr. Emery about how many spine cases he would be**
13 **doing?**
14 A. Well, it's unpredictable. You don't know
15 how many cases are going to be referred to you
16 that need surgery. So you can -- like any
17 investment, you can look at past performance and
18 try to project, but Dr. Emery, Schmidt, and
19 Winzenried, I believe, were looking aggressively
20 at expanding their own practices into the Billings
21 marketplace and generating cases, so....
22 **Q. All right.**
23 **MR. CLAYTON:** I want to mark as the next
24 exhibit Exhibit 5. It's going to be a document
25 that is Bates-stamped Schneider 345, 346.

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1 **EXHIBITS:**
2 (Exhibit No. 5 marked for
3 identification.)
4 **Q. (BY MR. CLAYTON)** This looks like
5 it's a letter from you to Dr. Winzenried dated
6 September 7 of 2010. Do you recognize this
7 letter?
8 A. I do.
9 **Q. Okay. Dr. Winzenried was not one of the**
10 **initial investors, is that right, in the OMNI**
11 **project?**
12 A. I believe that's correct.
13 **Q. I'll represent to you that he purchased**
14 **his shares in September or October of 2011. Why**
15 **was he not an initial investor? Do you know?**
16 A. I believe he did not have a license in
17 Montana. And to be an investor in a surgery
18 center, you have to be -- and I may be wrong on
19 this -- but my understanding is you have to be
20 actively practicing or anticipate practicing at
21 that location, otherwise there's some Stark law
22 issues, I guess.
23 **Q. All right. Let me ask you to look at the**
24 **fourth paragraph, Dr. Schneider.**
25 A. Uh-huh.

<p style="text-align: right;">Page 85</p> <p>1 Q. And you say, I would request your 2 consideration of the following: become actively 3 credentialed at St. Vincent's Healthcare in 4 Billings, collaborating with Dr. Erpelding to 5 cross over and participate -- 6 A. Cross-cover. 7 Q. I'm sorry. Cross-cover. Excuse me. 8 -- cross-cover and participate any patients that 9 you would take care of at that institution. I 10 would imagine these would be extremely few, if 11 any. However, this would allow a transfer of all 12 aspects of orthopedic or spine cases to the 13 hospital should that ever become necessary. 14 What's the point of this letter, and why 15 are you sending it in September of 2010? 16 A. Well, the point of this letter is to -- I 17 must have had a conversation with Dr. Winzenried 18 on his plans, because if you keep reading, it 19 talks about five or ten years. I mean, I have a 20 collegial relationship with him. 21 And he had expressed interest in -- I 22 hate to say semiretirement, but stop taking call 23 at West Park Hospital and Powell Hospital and 24 focus on an outpatient surgical location to do 25 most of his orthopedic work.</p>	<p style="text-align: right;">Page 87</p> <p>1 that was credentialed on active staff, 2 Dr. Erpelding at St. Vincent's. As I testified to 3 earlier, St. Vincent's did not allow for solo 4 practitioners, specialists, to independently 5 credential without some type of -- and not be part 6 of a group. And so Dr. Erpelding would go to 7 Powell Hospital and West Park Hospital and work 8 with Dr. Winzenried. I saw them frequently 9 together. So this is merely a gentle coercive 10 suggestion to Dr. Winzenried: Here's a method by 11 which, if you wanted to practice at the Center, if 12 you got credentialed, work with Dr. Erpelding, 13 hopefully he'll come work with us. That was the 14 nature of this letter. 15 Q. Well, was also one purpose of this letter 16 related to being able to transfer patients from 17 ONI to St. Vincent? 18 A. Sure. 19 Q. So let's back up for a minute. April 20 2010, it looks like there maybe was a meeting in 21 Cody or Billings -- 22 A. Yes, Cody. 23 Q. -- with Meridian personnel and some 24 potential physician investors? 25 A. Yes.</p>
<p style="text-align: right;">Page 86</p> <p>1 And this letter is merely, I have what I 2 think is a collegial relationship with 3 Dr. Erpelding, and so I'm trying to be a 4 matchmaker here, actually, trying to get other 5 surgeons and physicians in the community 6 interested in this project to try to expand its 7 operational footprint, certainly beyond my 8 practice and beyond the initial people that 9 expressed interest, Dr. Emery and Schmidt. 10 Q. So you asked Dr. Winzenried to get 11 credentialed at St. Vincent's, right? 12 A. In the letter I did, yes. 13 Q. And do you know if he applied for 14 credentials? 15 A. Don't know. 16 Q. Did you think that he could get 17 credentialed at St. Vincent's? 18 A. Can't answer that. 19 Q. Well -- 20 A. I mean, I could answer that. I don't 21 know is my answer. 22 Q. But you suggested it, and I assume if you 23 thought it was impossible, you wouldn't waste your 24 time suggesting it. I mean, is that not fair? 25 A. That is fair. I identified a surgeon</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. What was said at that meeting about 2 transfer agreements, if anything? 3 A. Well, Dr. Schmidt, I think was the -- 4 and Teresa Trier were the most vocal individuals 5 and asked specifically of Meridian, What is your 6 operational plan to get a transfer agreement in 7 place? Because that is necessary for us to open. 8 And representations by Meridian were made 9 that the transfer agreement would be no problem. 10 It was almost dismissed by the Meridian 11 authorities, Mr. Hancock, Kathy Kowalski, Chris 12 Suscha, that they would be able to demand, with 13 the force of federal legal authority and coercion, 14 to get a transfer agreement because it was 15 antitrust and anticompetitive for the hospitals to 16 refuse us, even though it was made very clear by 17 myself and the other physicians at that meeting 18 that none of us had a desire to credential at the 19 Billings hospital and be part of the on-call 20 emergency room network in Billings. 21 Q. Let me back up. Is it your testimony 22 that at that April meeting that Mr. Hancock told 23 you that it would be an antitrust violation if you 24 didn't get a transfer agreement? 25 A. Yes.</p>

<p style="text-align: right;">Page 89</p> <p>1 Q. April 2010? I just want to be very clear 2 about the dates. 3 A. Well, I can't be clear about the dates 4 because I can't remember exactly in that meeting. 5 But from the inception, Mr. Hancock, Cathy 6 Kowalski, Chris Suscha indicated to us that the 7 hospitals could not refuse us a transfer 8 agreement, even though they knew the demographics 9 of the physicians and what our intentions were, 10 because it was an antitrust violation. 11 And they would have the power of the 12 court to coerce the hospitals into signing a 13 transfer agreement. And we took them at their 14 word. 15 Q. And I'm not seeing any e-mails in the 16 documents you produced from you to anybody at 17 Meridian that says anything about antitrust 18 violations and transfer agreements until December, 19 basically, of 2011, November 2011. 20 So I just want to make sure I understand, 21 so when we get to the arbitration here, I 22 understand what the record is. But you're 23 testifying -- 24 MR. RAGAIN: Object to the form of the 25 question. Argumentative.</p>	<p style="text-align: right;">Page 91</p> <p>1 extended care. And that is the -- that is the 2 only reason that Northern Rockies Surgical Center, 3 not by rejecting my application, but merely kindly 4 informing me, and said, Well, you can put your 5 application in, but part of the application is 6 your care plan. You need to either have a 7 physician who is credentialed at the hospitals 8 take care of your patients, or you need to be on 9 active staff at one of the hospitals. 10 So that was from 2008, 2009. So when we 11 met with Meridian -- excuse me -- I mean our 12 representation from the beginning was, Okay. We 13 know John Schneider and his medical practice will 14 not be able to get a transfer agreement because 15 I'm a solo practitioner, and unless I want -- as 16 I've testified to -- bring in other physicians, 17 join the hospital medical staff, participate in 18 the on-call for the hospital, then I will not be 19 able to get a transfer agreement, or I will not be 20 able to be credentialed at a facility that 21 requires a transfer agreement. 22 That is the representation that we made 23 to Mr. Suscha, to Mr. Hancock, in the beginning of 24 these conversations. And it was their position 25 from the inception of the project that antitrust</p>
<p style="text-align: right;">Page 90</p> <p>1 Go ahead. 2 Q. (BY MR. CLAYTON) -- under oath that 3 Mr. Hancock told you in April 2010 that Billings 4 or St. Vincent's had to give you a transfer 5 agreement under the antitrust laws? 6 A. Absolutely. 7 Q. Who else was present for that 8 conversation? 9 A. Teresa Trier, and I believe the other 10 physicians, Dr. Frank Schmidt, Dr. Winzenried, 11 Dr. Emery -- possibly not Winzenried. Possibly 12 just Dr. Emery. 13 Q. What else was said about transfer 14 agreements at that meeting? 15 A. Well, I know I represented to Mr. Suscha, 16 either at that meeting or before that meeting, 17 when he first came out, and certainly subsequent 18 to that meeting, that my experience in the 19 Billings marketplace and talking to Northern 20 Rockies Surgery Center was that I could not get 21 credentialed at that facility because they 22 specifically told me I needed to be on active 23 medical staff at one of the hospitals to take care 24 of my patients who had outpatient surgery, whom 25 would possibly get transferred to the hospital for</p>	<p style="text-align: right;">Page 92</p> <p>1 would prevent the hospitals from rejecting our 2 request. We would have no other -- we were 3 looking for a solution that did not require us to 4 become active medical staff at the hospitals. 5 And Mr. Hancock, Cathy Kowalski, and 6 Chris Suscha represented that they had that 7 solution. 8 Q. The solution was -- I'm not sure I follow 9 that. They had a solution for what? You not 10 being credentialed? 11 A. They had a solution that did not require 12 us -- they had a solution allowing the Surgicenter 13 to be opened that would not require us to be 14 credentialed at the hospitals in Billings, or have 15 a care plan that required transfer of our patients 16 to a physician that was credentialed. 17 They had a solution that a transfer 18 agreement was an obligation of the hospital 19 facilities to the OMNI Surgery Center once -- 20 during its process of development. So it is based 21 upon that representation that we moved forward 22 with the project. 23 Otherwise, there was no reason -- we 24 never would have moved forward with this project. 25 Q. Did you ask Meridian if they had ever</p>

<p style="text-align: right;">Page 93</p> <p>1 filed an antitrust lawsuit?</p> <p>2 A. Mr. Hancock was very self-assured that he</p> <p>3 had the power of your law firm, Bass Berry, behind</p> <p>4 him, and that was a big enough stick and threat</p> <p>5 that he will get a transfer agreement whether the</p> <p>6 hospitals want to or not. We took him at his</p> <p>7 word.</p> <p>8 Q. And that's happening in April, you say,</p> <p>9 of 2010. Do you have any other discussions about</p> <p>10 that after that point?</p> <p>11 A. Oh, absolutely. When a transfer</p> <p>12 agreement wasn't forthcoming.</p> <p>13 Q. And what dates or time frame are you</p> <p>14 talking about?</p> <p>15 A. Well, ultimately, as you know,</p> <p>16 Miss Humphreys in your law firm sent a letter to</p> <p>17 the hospitals. So that was an ongoing, active</p> <p>18 discussion from -- when we wrote checks to become</p> <p>19 investors, we did so on the understanding that</p> <p>20 Mr. Hancock, as a representative of Meridian, was</p> <p>21 going to be able to get a transfer agreement,</p> <p>22 whether the hospitals wanted to give it to us or</p> <p>23 not, because of antitrust laws.</p> <p>24 And those conversations were revisited</p> <p>25 during the initial few meetings, but then</p>	<p style="text-align: right;">Page 95</p> <p>1 didn't appreciate the significance of it back in</p> <p>2 April of 2010, for the very specific reasons that,</p> <p>3 despite whether the CMS is provided a transfer</p> <p>4 agreement, they don't allow Medicare cases for</p> <p>5 spinal pathology to be operated on in a surgery</p> <p>6 center.</p> <p>7 So my percentage of patients that would</p> <p>8 require -- that would be Medicare that would be</p> <p>9 done at the Surgery Center are zero. So I</p> <p>10 actually thought the transfer agreement was only</p> <p>11 significant for that fact.</p> <p>12 I didn't realize until much later -- and</p> <p>13 I'm not sure that Jovanna Grissom, who works for</p> <p>14 Meridian, even realized -- that the State would</p> <p>15 not provide a license to open. So the license was</p> <p>16 much more significant to me than a transfer</p> <p>17 agreement.</p> <p>18 Q. Because you had private-pay patients, not</p> <p>19 Medicare patients.</p> <p>20 A. Correct.</p> <p>21 Q. I mean, the majority.</p> <p>22 A. The majority. And certainly, everything</p> <p>23 that I physically would do would be a private-pay</p> <p>24 patient at the Surgery Center. All the revenue</p> <p>25 projections would be from private-pay patients.</p>
<p style="text-align: right;">Page 94</p> <p>1 revisited with much more intensity prior to Angela</p> <p>2 Humphreys writing a letter she did to the</p> <p>3 hospitals.</p> <p>4 Q. Are you aware of any e-mails that you</p> <p>5 have seen and produced in this case where</p> <p>6 Mr. Hancock, or someone at Meridian, states that</p> <p>7 the hospitals will have to give us a transfer</p> <p>8 agreement because of antitrust laws?</p> <p>9 A. I have not seen an e-mail to that fact.</p> <p>10 Q. Was the transfer agreement important to</p> <p>11 you?</p> <p>12 A. Well, at that point in time, a transfer</p> <p>13 agreement was --</p> <p>14 Q. Let me just clarify: April -- we're in</p> <p>15 2010, April 2010. Okay. Go ahead.</p> <p>16 A. Well, at that point in time, I had never</p> <p>17 been on the administrative side of developing a</p> <p>18 surgery center, so it was my understanding that a</p> <p>19 transfer agreement was necessary in order for a</p> <p>20 center for medical services, CMS, to grant -- or</p> <p>21 to allow Medicare patients to be done -- to have</p> <p>22 procedures done at the Surgery Center.</p> <p>23 So, relatively speaking, having a care</p> <p>24 plan was important, but an actual, official</p> <p>25 transfer agreement document in place, I certainly</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. You mentioned that, I think, at that</p> <p>2 meeting, you recall, was it Dr. Emery being very</p> <p>3 vocal about a transfer agreement?</p> <p>4 A. Schmidt.</p> <p>5 Q. I'm sorry. Dr. Schmidt. What did</p> <p>6 Dr. Schmidt say at that meeting?</p> <p>7 A. What are your plans for getting a</p> <p>8 transfer agreement with the hospitals? And then</p> <p>9 Teresa Trier, more so than me, also very vocal.</p> <p>10 And I -- Teresa Trier, in particular, and me as</p> <p>11 well, but Teresa Trier, If you are expecting to</p> <p>12 get a transfer agreement, because Dr. Schneider is</p> <p>13 going to -- based upon Dr. Schneider doing cases</p> <p>14 there, that's not going to occur. So what are</p> <p>15 your plans? And this was directed toward</p> <p>16 Meridian.</p> <p>17 Q. You were here for her testimony the other</p> <p>18 day?</p> <p>19 A. I was.</p> <p>20 Q. What I took away from that deposition,</p> <p>21 one of the things, is that she said Chris Suscha,</p> <p>22 and/or people at Meridian, responded that they</p> <p>23 understood, and it was not unusual for hospitals</p> <p>24 to push back on transfer agreement requests, but</p> <p>25 that in Meridian's experience, they had never not</p>

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1 gotten a transfer agreement.
2 Do you recall that testimony?
3 MR. RAGAIN: Object to the form.
4 THE WITNESS: I know that was part of the
5 testimony that she gave, yes.
6 Q. (BY MR. CLAYTON) Do you agree or
7 disagree with that?
8 A. With what? That that was her testimony?
9 Q. No. That that was said by Meridian.
10 A. I don't exactly recall what was said.
11 Q. Do you recall something similar --
12 A. Oh, what was said by Meridian, not the
13 deposition?
14 Q. Yes.
15 A. No. Meridian did represent that they --
16 and that's why we had confidence in them, that
17 they have always been able to get a transfer
18 agreement, regardless of the circumstances, for
19 the physicians that they went -- that were
20 investors in their center, which we took at faith
21 and face value. Okay.
22 And if you're able to do that through a
23 coercive enforcement of federal law to a hospital
24 that's unwilling, the more the better. That's why
25 we went forward with them.

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1 Q. Mike Greear -- is that his name -- Gear
2 or Greear?
3 A. Greear.
4 Q. Greear. Lawyer?
5 A. Lawyer.
6 Q. He represented you in these transactions,
7 didn't he?
8 A. He represented Schneider Limited
9 Partnership.
10 Q. Schneider Limited Partnership. I'm
11 sorry. I will try to be more clear.
12 Did you talk to Mike about transfer
13 agreements and antitrust law?
14 A. I don't recall. And if I did, it might
15 be privileged.
16 Q. I'm not asking you what he said. I just
17 want to know if you consulted him about it.
18 A. I do not recall if I talked to him about
19 antitrust law. And I don't believe he ever has
20 represented himself as any skill set with regard
21 to antitrust law. I do recall a very early
22 conversation --
23 MR. CLARK: Don't say what you talked to
24 Mike about.
25 THE WITNESS: I do recall a very early

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1 conversation, and I know that you'll be deposing
2 Angela Humphreys. I had a very brief conversation
3 with her before dirt was ever broken. And there
4 was conversations about this with Angela
5 Humphreys, and I specifically asked her, If it
6 comes to us needing to battle this out with the
7 hospitals, will you, Angela Humphreys, also
8 represent the physicians?
9 And her response was, No. I can't do
10 that. I represent Meridian.
11 And that was 2010. The only reason I
12 would have spoken with Angela Humphreys was, What
13 is the nature of the contract relative to the
14 ability to get -- the ability to open, if this
15 transfer agreement is so significant. So your own
16 partner, or whatever the relationship is in your
17 law firm, there's communication early on.
18 Q. (BY MR. CLAYTON) Now, you say that would
19 be the only reason you would talk to Angela
20 Humphreys. But isn't it true that Angela
21 Humphreys was doing the transactional paperwork
22 and exchanging it with Mr. Greear?
23 A. So I would always talk to Mr. Greear, who
24 represented me, and not talk to counsel for
25 another party.

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1 Q. Right.
2 A. So, no, transactional paperwork was not
3 the issue. How was this Center going to be opened
4 was the issue. And Mr. Suscha and the other
5 Meridian members represented the strength of Bass
6 Berry would be able to force it open.
7 Q. And when was this conversation that you
8 alleged you had with Ms. Humphreys?
9 A. Either in 2010 or early 2011.
10 Q. Who was involved in that conversation?
11 A. I talked directly to her. I called her.
12 Q. On the phone?
13 A. Yes.
14 Q. Do you remember if there were any other
15 discussions about transfer agreements at that
16 first meeting?
17 A. I don't recall.
18 Q. What did Ms. Humphreys say on that
19 conversation? Can you remember any specifics
20 about anything she specifically said?
21 A. Well, she said she couldn't represent
22 anybody but Meridian, that they were her clients.
23 That was it.
24 Q. I thought you had a conversation with her
25 about antitrust.

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1 A. I did.
2 **Q. So I'm asking you --**
3 **MR. CLARK:** Objection. He answered the
4 question.
5 **Q. (BY MR. CLAYTON)** You called her about
6 antitrust, and she said, I can't represent you.
7 I'm just trying to understand -- I'm not clear as
8 what was said by you or her. That's what I'm
9 asking.
10 A. I asked her if litigation was necessary
11 to get the Center open with the hospitals, if she
12 would be representing the physicians, me and the
13 physicians.
14 And her response was, No, I'll represent
15 Meridian.
16 **Q. Thank you.**
17 A. So I said, Thank you very much, and that
18 was it.
19 **Q. Did you ask Meridian to put anything in**
20 **writing that guaranteed there would be a transfer**
21 **agreement?**
22 A. The only thing I have in writing from
23 Meridian is memorialized in the contracts and the
24 e-mails.
25 **Q. Are you aware of any e-mail in which**

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1 **anyone at Meridian says, Meridian guarantees that**
2 **there will be a transfer agreement?**
3 A. Meridian guarantees that they will open
4 the Center. If a transfer agreement is mandated,
5 then they've made representation, and that
6 representation is not correct, then any
7 representation including an operating agreement,
8 from my perspective, is negligent and fraudulent,
9 because they promised they would get us a transfer
10 agreement -- they promised they would open the
11 Center. And if that required a transfer
12 agreement, they would get it. But until late in
13 2011, I assumed from Ms. Grissom that she would
14 still get a license from the State, even without a
15 transfer agreement. In fact, it was very
16 specifically told to me by Mr. Hancock,
17 Ms. Grissom, Miss Kowalski, Well, we won't be able
18 to open and do Medicare cases because we don't
19 have a transfer agreement. But we'll get the
20 license, open, and continue to work on the
21 transfer agreement.
22 That was very specifically said to me,
23 Teresa Trier, and I don't know if there were other
24 physicians involved. So I assumed that we would
25 have a license to open.

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1 **Q. Are you familiar with the management**
2 **services agreement?**
3 A. I have read it before, but not in
4 preparation for today.
5 **Q. Do you recall what it says about**
6 **licensure in the management services agreement?**
7 A. I don't specifically.
8 **Q. Do you recall if, in the private offering**
9 **memorandum, there was risk disclosures regarding**
10 **licensure?**
11 A. I don't recall if there is.
12 **Q. Did you read the private offering**
13 **memorandum before you signed the subscription**
14 **agreement?**
15 A. At least once.
16 **Q. And did you talk to -- and I don't want**
17 **to know what was said -- but did you consult**
18 **Mr. Greear about the private offering memorandum?**
19 A. I believe Mr. Greear had the opportunity
20 to review the documents.
21 **Q. In fact, isn't it true he sent some**
22 **questions regarding the private offering**
23 **memorandum to you to forward to Meridian?**
24 A. I'll take your word for it, if that's a
25 fact.

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1 **MR. CLAYTON:** I want to mark as the next
2 exhibit, it will be Exhibit 6 to your deposition.
3 It is a document that is Bates-stamped
4 Schneider 367.
5 **EXHIBITS:**
6 (Exhibit No. 6 marked for
7 identification.)
8 **Q. (BY MR. CLAYTON)** Let me hand that to you
9 there, Dr. Schneider.
10 A. Okay. I'm ready.
11 **Q. All right. And the second sentence in**
12 **the bottom e-mail, it's an e-mail from you dated**
13 **November 22nd to Mr. Samples and Mr. Suscha,**
14 **copying Teresa, correct?**
15 A. Correct.
16 **Q. And it looks to me like you were saying**
17 **to Mr. Samples and/or Mr. Suscha, It would be**
18 **worth calling Joe Erpelding. Jay Winzenried had a**
19 **good conversation with him. Let him know we have**
20 **two St. Vincent internal medicine doctors and one**
21 **cardiologist, all who will accept any of our**
22 **patients for any medical reason to be transferred**
23 **to St. Vincent under their care, thus our transfer**
24 **agreements are in place for all medical coverage.**
25 **Did I read that correctly?**

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1 A. You did.

2 **Q. And that was a representation you'd made**

3 **to Mr. Samples and Mr. Suscha on November 22nd,**

4 **right?**

5 A. Correct.

6 **Q. Who were the two St. Vincent internal med**

7 **doctors?**

8 A. Dr. Ed Malters was one.

9 **Q. I'm sorry. Ted?**

10 A. Ed, E-D, Malters. And I can't remember

11 the name of the other one. And then the

12 cardiologist was -- he's up here across the street

13 from St. Vincent's -- I'm blanking on his name.

14 But I actually had letters from them that

15 said, Yes, if your patients have medical problems,

16 we will be happy to take care of them.

17 **Q. Do you have those letters?**

18 A. They should have been forwarded to you

19 through counsel. And I think they were provided

20 to Mr. Hancock early on.

21 **Q. What happened with respect to**

22 **Mr. Malters, the cardiologist, and the other**

23 **internal medicine doctor, who you don't remember?**

24 A. Well, I think this is a good example of

25 me not appreciating what a true transfer agreement

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1 was to open a center. In my mind, if I had a

2 physician that I could call up and say, My patient

3 is having pulmonary problems or cardiac problems

4 after a procedure done at the ONI Center, they

5 would say, I would be happy to take care of them.

6 And it would be an internal problem or a

7 cardiology problem, and they would admit them to

8 the hospital and take care of them.

9 So it was my understanding that that was

10 what was necessary, as far as a transfer, to be

11 able to move forward and get the Center open.

12 Obviously, I was naive, because a transfer

13 agreement is much more.

14 **Q. Do you know if Northern Rockies Surgical**

15 **Center had a transfer agreement?**

16 A. I don't believe they actually do,

17 although a Deaconess person said they did. But

18 when I applied in whenever, 2008, 2009, they told

19 me that they did not have a transfer agreement for

20 surgeons -- said the only way that one could get

21 credentialed at the Outpatient Surgery Center is

22 to be on active staff at one of the hospitals.

23 So in order for me to credential, I would

24 have to be on active staff at one of the

25 hospitals. So there was a care plan in place

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1 where I, as the surgeon, could take care of the

2 patient at the Surgery Center, and then I, as the

3 surgeon, could continue to take care of that

4 patient if they were admitted to the hospital.

5 For one very significant reason: It doesn't

6 matter how many internal medicine patients -- or

7 doctors or cardiologists you have who will take

8 your patient. If the patient has a blood clot,

9 they need to go back to surgery. So it has to be

10 a surgeon-to-surgeon transfer.

11 **Q. So would you call that a doctor-to-doctor**

12 **transfer?**

13 A. I would call it a neurosurgeon-to-

14 internal medicine doctor transfer for a medical

15 problem.

16 **Q. Okay. All right. Let me ask you to look**

17 **at what I'm going to mark as Exhibit 7.**

18 **EXHIBITS:**

19 (Exhibit No. 7 marked for

20 identification.)

21 **Q. (BY MR. CLAYTON) And it's a document**

22 **Bates-stamped Schneider 368 through 369. So what**

23 **I wanted to ask you about, Dr. Schneider, is in**

24 **the fourth paragraph, the last sentence that**

25 **begins on 368.**

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1 **For the record, this appears to be a**

2 **letter from you to Dr. Erpelding dated 11-30-2010.**

3 **Do you recognize the letter?**

4 A. Yes.

5 **Q. That bottom sentence says, In this**

6 **regard, I would request your consideration of an**

7 **agreement in writing and in place to accept either**

8 **orthopedic or spine patients in transfer**

9 **postoperatively from the orthopedic neurological**

10 **institute should the need arise. If we had that**

11 **in place by January 1st, 2011, its effect would**

12 **only come in place after opening our facility.**

13 **Both cardiology and internal medicine support is**

14 **already in place.**

15 **What was the purpose of this letter, and**

16 **what are you trying to tell Dr. Erpelding?**

17 A. Well, Dr. Erpelding had his own

18 difficulties with St. Vincent's Healthcare and the

19 orthopedic group there. And I have known

20 Dr. Erpelding, and I started operating with him

21 and he does spine surgeries. Perhaps not now, but

22 he did back in '97 and '98. And I have a good

23 collegial relationship with him.

24 So part of me, as the marketing guy, I'm

25 trying to solicit his interest to coming on board,

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1 and at this point in time, obviously, was
2 sensitive to a -- what a transfer agreement,
3 perhaps, entailed. In other words, we need
4 someone who can take care of an orthopedic and
5 spine complication, who is on active medical
6 staff.
7 So these are all reflective of my ongoing
8 efforts, beyond what we expected Meridian to do,
9 to get this Center open. And I was offering him a
10 home.
11 **Q. And so are you undertaking this, then,**
12 **sort of at your own behest?**
13 A. Well, I would like to think at this point
14 in time we were all collaborating on an effort.
15 And as opposed to just sitting back and expecting
16 Meridian to do this, when it didn't come quickly
17 to fruition, I was making every effort that I
18 could to try to get the Center open.
19 **Q. Now, you would agree with me that the**
20 **date of this letter is November 30, 2010, correct?**
21 A. Yes.
22 **Q. And the Center -- when was the**
23 **construction completed?**
24 A. 2011.
25 **Q. Like, September or October, later 2011?**

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1 A. And it was delayed, yeah.
2 **Q. So when you're saying you're trying to**
3 **get the Center open, I mean, the Center is not**
4 **close to being open in November of 2010; is that**
5 **right?**
6 A. That is correct.
7 **Q. What did Dr. Erpelding -- did he respond**
8 **to you?**
9 A. I don't believe he ever responded in
10 writing, but I talked to him a few times.
11 **Q. Okay. And do you recall talking about**
12 **this letter specifically with Dr. Erpelding?**
13 A. I don't.
14 **Q. What do you recall talking to**
15 **Dr. Erpelding about in relation to OMNI?**
16 A. Well, I think he was interested. I mean
17 he was one of the names, when Mr. Suscha first
18 came to town, I specifically gave Mr. Suscha two
19 sets of names. One, Here are my competitors and
20 here are the physicians that I have been in
21 aggressive, active competition with for the last
22 several years. So do your due diligence on me and
23 talk to these people.
24 Two, Here are the physicians in the
25 community or providers in the community that may

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1 be able to join us and provide additional revenue.
2 So Dr. Erpelding was on the second list, as well
3 as some podiatrists and a few other people.
4 So I know that Mr. Suscha, at least I
5 believe early on he had conversations. And
6 Dr. Erpelding continued to express some interest,
7 but wasn't ready to leave his home at
8 St. Vincent's during this time frame.
9 **Q. Okay.**
10 A. So I am going to have to use the rest
11 room again.
12 **Q. Yeah. We can take a break.**
13 **(Whereupon, a recess was taken.)**
14 **Q. (BY MR. CLAYTON) Just for the record,**
15 **Mr. Womack has indicated to the court reporter**
16 **that he is leaving for the day and will not be**
17 **returning.**
18 **Dr. Schneider, in 2009, or even early**
19 **2010, did you ever have any discussions with**
20 **Dr. Middleton, or the chief medical officer at**
21 **St. Vincent's, about getting a transfer agreement**
22 **for a project like OMNI?**
23 A. Well, I think that my assertions in the
24 letters that you have showed is that I probably
25 didn't appreciate what the transfer agreement

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1 truly was. So I did have a conversation with
2 Dr. Eric Dringman.
3 **Q. How do you spell his name?**
4 A. Eric, E-R-I-C, Dringman, D-R-I-N-G-M-A-N.
5 And in the 2009-2010 time frame. He's a very good
6 general surgeon, now a senior general surgeon at
7 St. Vincent's. And we operated together and I've
8 taken care of his family for surgical reasons over
9 the years.
10 And part of my surgeries require a
11 general surgeon or vascular surgeon to get to the
12 anterior part of the spine. So I called, and
13 somewhat the same as Dr. Erpelding, trying to
14 solicit his interest in getting credentialed at
15 OMNI and coming over with the idea that if there
16 was a postoperative complication, that he would be
17 available back at St. Vincent's to take care of
18 that patient.
19 And that would be for a limited number of
20 the surgeries that I would do, but, still, it was
21 my effort to increase the number of people who
22 would be operating and using the OMNI facility.
23 So I did have a conversation with him.
24 **Q. All right. And that was in 2009, you**
25 **think?**

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1 A. Perhaps 2010, somewhere in the middle.
2 **Q. And the idea is he would have been**
3 **credentialed at OMNI as well as being at**
4 **St. Vincent?**
5 A. To do surgery with me at OMNI, correct.
6 **Q. But did you ever have any discussions in**
7 **2009 or '10 with anybody in administration at**
8 **St. Vincent about a transfer agreement? You've**
9 **talked a lot about the different surgeons and**
10 **physicians, but when I say "administration," I'm**
11 **talking about, you know, individuals in the C**
12 **suite at the hospital.**
13 A. So the nonphysicians?
14 **Q. Yes, nonphysicians.**
15 A. No.
16 **Q. And the same question with respect to**
17 **Billings Clinic. Did you talk to any of the**
18 **administrators in 2009 or '10 about a transfer**
19 **agreement?**
20 A. I did not.
21 **Q. And to be clear, so we're making sure**
22 **we're on the same page, I said "nonphysicians."**
23 **Specifically, is it Dr. Middleton? Did you have**
24 **any conversations with him in 2009 or '10 about a**
25 **transfer agreement for the OMNI Center?**

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1 A. I did not.
2 **Q. All right.**
3 A. But I did with Dr. Dringman.
4 **Q. You testified that you had a conversation**
5 **with him in 2009 or '10, correct, about --**
6 A. Operating, and then being able to
7 transfer patients there.
8 **Q. What happened with that?**
9 A. Well, he asked me, he says, Are you
10 guys -- it must have been in the later --
11 actually, it must have been later 2010, because he
12 asked me, he said, Have you all got a transfer
13 agreement?
14 I said, Well, that's one of the reasons
15 I'm calling you, because I want to try to
16 establish you working here.
17 And he told me that from the inception of
18 the project, with Chris Suscha going over and
19 talking, he said -- he represented to me that he
20 had spoken with the orthopedic guys and the
21 neurosurgeons who are on active medical staff at
22 St. Vincent's. And they had no intentions of
23 participating in OMNI and no intentions of letting
24 the hospital get a transfer agreement.
25 **Q. I'm sorry. You said, letting the**

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1 **hospital get a transfer agreement, or did you mean**
2 **to give a transfer agreement?**
3 A. Providing a transfer, correct.
4 **Q. Did he say specifically who he talked**
5 **with?**
6 A. He just used the generality.
7 **Q. So when do you think you got that**
8 **information?**
9 A. Like, late 2010.
10 **Q. Could it have been in 2011?**
11 A. Perhaps. But I think it was late 2010,
12 and it was, again, along the lines of my
13 conversation with Dr. Erpelding, where I was
14 actually trying to actively recruit people to join
15 the medical staff at OMNI to increase utilization.
16 **Q. Did you tell Meridian prior to that that**
17 **there was no way that St. Vincent would give a**
18 **transfer agreement to the OMNI project?**
19 A. From the inception, we let Meridian know
20 that getting a transfer agreement would be
21 incredibly difficult. If they were relying upon
22 me and my relationships in Billings to get that
23 transfer agreement, that was never going to
24 happen.
25 And therefore, that was the premise by

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1 which all our original conversations occurred.
2 What do you -- and then our question, Do you have
3 a solution?
4 And, Yes, we do. Here's the solution.
5 And that's why we went with Meridian. So
6 it was made repetitively, extremely clear to Chris
7 Suscha, Kenny Hancock, Cathy Kowalski, and then
8 Jovanna Grissom, that based upon goodwill, that
9 the physicians -- that the hospital,
10 St. Vincent's, would not provide a transfer
11 agreement unless we had a method by which we would
12 actually actively take care of our patients at
13 St. Vincent's. So we would have to become active
14 medical staff at St. Vincent's.
15 **Q. So were you telling them that you could**
16 **get a transfer agreement, but it would require you**
17 **to be an active participant on the medical staff?**
18 A. Well, again, and in these early
19 conversations, as is reflective in those letters,
20 my understanding of this transfer agreement was
21 naive. So I just assumed that they would allow --
22 if we call up -- if I was credentialed at
23 St. Vincent's and I was credentialed at OMNI, and
24 I had a patient at OMNI that needed inpatient
25 hospitalization, I could pick up the phone and

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1 call the ER at St. Vincent's and say, I need to
2 transfer a patient over to St. Vincent's. I'm
3 going to admit them and take care of them at
4 St. Vincent's. I just did a surgery and I think
5 they have a blood clot, whatever the issue was.
6 So that was my understanding of what was necessary
7 in order to be able to open the Center.
8 **Q. And the scenario you just described, were**
9 **you comfortable with that scenario?**
10 A. Which scenario?
11 **Q. Well, I think what you're telling me is**
12 **you understood a transfer agreement was where you**
13 **would pick up the phone and say, I've just**
14 **operated on Mr. Clark and he needs to come over to**
15 **St. Vincent for another 12 hours, and we're past**
16 **our 23 hours. Will you follow him?**
17 **Is that what you're talking about?**
18 A. No. I would follow him.
19 **Q. You would follow him. Okay.**
20 A. Right.
21 **Q. All right. And what I'm saying is, were**
22 **you willing to do that? If you got credentials,**
23 **would you do that?**
24 A. Well, I do that in Wyoming. It's exactly
25 what happens between Northern Wyoming Surgical

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1 Center and West Park Hospital.
2 **Q. Okay. So you would have been willing to**
3 **get credentials, then, at St. Vincent, it sounds**
4 **like?**
5 A. If I met the criteria for applying for
6 credentials at St. Vincent's.
7 **Q. Okay. With respect to the subscription**
8 **agreement, do you recall signing a subscription**
9 **agreement at some point in 2010?**
10 A. I believe I did as a representative for
11 Schneider Limited Partnership.
12 **Q. Fair enough. And do you recall signing**
13 **the operating agreement as a representative of**
14 **Schneider Limited Partnership?**
15 A. Yes.
16 **Q. Did you sign anything in your individual**
17 **capacity, Dr. John Schneider, to effectuate the**
18 **sale of these interests in 2010?**
19 **MR. CLARK:** Objection, form of the
20 question.
21 **THE WITNESS:** I would have to see the
22 document to refresh. I can't remember in what
23 capacity I signed.
24 **Q. (BY MR. CLAYTON) As far as you know, did**
25 **you enter into any contracts individually with**

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1 **Meridian Montana Surgical Partners?**
2 A. I don't know.
3 **Q. Do you know if you individually entered**
4 **into any contract with Meridian Surgical Partners,**
5 **LLC?**
6 A. I would be happy to look at a document,
7 but I don't recall.
8 **Q. Did you have Mr. Greear review -- and**
9 **again, I'm not asking you what you discussed --**
10 **but did you have him review the financing**
11 **documents, for example, a guarantee of debt for**
12 **this transaction?**
13 A. I don't recall.
14 **Q. Have you heard the term "Sharia law"?**
15 A. I have.
16 **Q. And how did you hear of that term?**
17 A. Relative to these depositions, this
18 litigation.
19 **Q. When did you first hear about that term?**
20 A. Well, I know what Sharia law is from
21 much -- from my past --
22 **Q. Okay.**
23 A. -- but relative to its current use,
24 relative to this deposition.
25 **Q. Okay.**

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1 **MR. CLARK:** And I just want to make sure
2 that you're not asking him -- you're not expecting
3 him to talk about what I've told him.
4 **Q. (BY MR. CLAYTON) No. I'm not asking for**
5 **any privileged conversations here. I'm just**
6 **asking you, either as your individual capacity or**
7 **as a representative of Schneider Limited**
8 **Partnership, I'm asking, have you heard of the**
9 **term Sharia law?**
10 **And I believe you said -- in one instance**
11 **you said, I was familiar with it or I knew of it**
12 **from my past; is that accurate?**
13 A. Right. I mean, I've -- at some point in
14 the past. I don't know if it was five years or
15 ten years --
16 **Q. Right.**
17 A. -- I have heard of the term Sharia law,
18 and I know what it applies to.
19 **Q. Okay. Do you recall what context that**
20 **was in?**
21 A. Active combat with Muslims in the Middle
22 East. So I read extensively.
23 **Q. Were you in combat in the Middle East?**
24 A. No.
25 **Q. So when you said "active combat" --**

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1 A. No, we -- I'm sorry -- United States.
 2 There's -- I have read of the Muslim people and
 3 the various laws in the past.
 4 **Q. Okay. Do you know if the Sharia law**
 5 **component of this transaction had any economic**
 6 **effect on Schneider Limited Partnership?**
 7 A. I don't know if it did or not.
 8 **Q. If you had been -- let's assume you**
 9 **didn't know there was a Sharia law component to**
 10 **the financing, would that have changed your**
 11 **investment decision?**
 12 A. Ask the question one more time. Assuming
 13 I didn't know?
 14 **Q. No. Assuming that you -- I'm going to**
 15 **assume that you did know and ask you that you just**
 16 **assume that, that you understood that there was a**
 17 **Sharia law component to financing this**
 18 **transaction.**
 19 A. I did not know there was a Sharia law --
 20 **Q. I'm saying if you did, would you still**
 21 **have invested?**
 22 A. I would have some reservations relative
 23 to who Meridian was in partnership and would
 24 likely have done more in-depth investigation of
 25 Meridian and who their relationships were with.

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1 So I can't answer completely for Schneider Limited
 2 Partnership at this point in time. But I
 3 certainly would have, much as I looked into
 4 Western Security Bank and Wells Fargo to finance
 5 this operation for Schneider Limited Partnership,
 6 I would have looked into who Meridian was having
 7 relations with financially.
 8 **Q. Well, are you familiar with R Capita**
 9 **(phonetic)?**
 10 A. I am now.
 11 **Q. And when did you become familiar with**
 12 **R Capita?**
 13 A. I believe Mr. Van Atta mentioned it to
 14 me.
 15 **Q. Have you done any Internet or any other**
 16 **sort of research regarding R Capita?**
 17 A. In the last week, no.
 18 **Q. I'm sorry. I didn't mean in the last**
 19 **week. I just mean at any point.**
 20 A. That's when I became aware.
 21 **Q. Okay. So you, to this day, haven't**
 22 **looked at R Capita on the Internet?**
 23 A. I have not.
 24 **Q. Do you believe that all Muslims are**
 25 **terrorists?**

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1 A. No. Sorry. I didn't mean to laugh.
 2 **Q. No. I'm trying to understand the**
 3 **position here. Is it fair to say, then, that the**
 4 **fact that someone is Muslim would not necessarily**
 5 **cause you not to do business with them?**
 6 **MR. RAGAIN:** Object to the form. Double
 7 negative.
 8 **MR. CLAYTON:** Let me ask it again.
 9 You're right.
 10 **Q. (BY MR. CLAYTON) If someone is Muslim,**
 11 **do you have a personal aversion to doing business**
 12 **with someone that is Muslim?**
 13 A. I might. It might be a factor that I
 14 would consider when doing business with the
 15 individual.
 16 **Q. Okay. In what way would it be a factor?**
 17 A. I come from a very strong Christian ethic
 18 background, and so there's Muslim rites, rituals,
 19 and beliefs that are contrary -- and I'm not going
 20 to testify as to what those are -- but contrary to
 21 Christian faith. And so I would investigate that
 22 individual before going into business with them.
 23 **Q. Would that be true if the person happened**
 24 **to be Jewish?**
 25 A. Yes.

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1 **Q. Would that be true if the person was**
 2 **African American?**
 3 A. It is -- the diversity relative to color
 4 is not significant. The diversity relative to
 5 religion, in my view, is.
 6 **Q. Do you understand from this litigation**
 7 **what part of Sharia law was involved in the**
 8 **transaction?**
 9 A. No.
 10 **Q. Did you have any conversations with**
 11 **anyone at Meridian about how long it might take an**
 12 **antitrust lawsuit to -- how long it would take to**
 13 **get a resolution in an antitrust lawsuit?**
 14 A. I did not.
 15 **Q. Had you been in lawsuits prior to 2009,**
 16 **either individually or as part of an entity?**
 17 A. Yes.
 18 **Q. And your experience, were they civil**
 19 **lawsuits?**
 20 A. Yes.
 21 **Q. And what sort of nature of the lawsuits?**
 22 **Business?**
 23 A. Business and med mal.
 24 **Q. In your personal experience, how long**
 25 **would it take a med mal case to get to trial?**

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1 A. Two years.
2 **Q. And in the business cases you were**
3 **involved in, how long would it have taken to get**
4 **to trial?**
5 A. Those settled quickly, decisions were
6 made quickly, so I don't know.
7 **Q. I'm going to back up real quick and ask**
8 **you: I know you said you heard the term**
9 **previously, "Sharia law." What is Sharia law?**
10 A. Well, my understanding is relative to
11 someone who's of the Muslim faith, the law that
12 governs their business interactions and what they
13 can profit from, what they can't profit from. And
14 so that's my 10,000-foot understanding.
15 **Q. Let me step back in the timeline.**
16 **MR. CLAYTON:** I'm going to mark as the
17 next exhibit, as Exhibit 8, a document that is
18 Bate-stamped Schneider 370.
19 **EXHIBITS:**
20 (Exhibit No. 8 marked for
21 identification.)
22 **Q. (BY MR. CLAYTON) I'll hand that to you.**
23 **And you're welcome to read the entire thing,**
24 **Dr. Schneider. I'm going to tell you, I'm going**
25 **to ask you something about that first paragraph.**

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1 A. Sure.
2 **Q. So this is a letter dated December 13,**
3 **2010. And it appears to be from you to Sherri**
4 **Schuman at Advanced Care Hospital in Montana. Do**
5 **you recall this letter?**
6 A. I do now, yes.
7 **Q. And it says in the second sentence of**
8 **that first paragraph, it says, I have secured**
9 **full-time coverage for postoperative orthopedic**
10 **and spine care cases done at our facility at the**
11 **OMNI Center adjacent to the Advanced Care**
12 **Hospital.**
13 **What full-time coverage were you**
14 **referring to there when you say you "secured"**
15 **that?**
16 A. Well, I presumed that having the two --
17 the one or two internal medicine and the
18 cardiology physicians saying they're willing to
19 take any patients that we need medical coverage,
20 that that was adequate.
21 **Q. All right. Now, in December of 2010, are**
22 **you having conversations with Jovanna Grissom or**
23 **Cathy Kowalski?**
24 A. Well, I had ongoing conversations with
25 them from the inception of the project.

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1 **Q. Okay. Did you ever ask them and say,**
2 **Hey, my understanding is, is that I have this**
3 **coverage, that I'm in good shape.**
4 **Did you ever ask them about that?**
5 A. Well, I provided them the letters that
6 came from the physicians and said, Here are the --
7 here are two or three physicians in the Billings
8 community that are credentialed at St. Vincent's
9 who are willing to take care of my postoperative
10 cases from a medical perspective.
11 And they said, Great.
12 **Q. And those letters that you say you've**
13 **provided to them, have they been produced in this**
14 **litigation?**
15 A. I believe Mr. Clark or Mr. Frazier was
16 given all the documents that I have. They have
17 subsequently passed to Mr. Clark.
18 **Q. All right. Can you tell me the names of**
19 **everybody that you think you sent to Meridian in**
20 **terms of having postoperative coverage? I just**
21 **want to be --**
22 A. The letters?
23 **Q. Yeah. What physicians did you tell**
24 **Meridian I have postoperative coverage with?**
25 **That's what I'm trying to get at. And I'm looking**

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1 **to see if there are any documents.**
2 A. So Dr. Malter, Ed Malter that I
3 mentioned before, and then the cardiologist is --
4 first name is Joe. He's got the cardiothoracic
5 center that's across the street from
6 St. Vincent's. I know I can't ask anybody that's
7 in the room officially.
8 So those two letters do exist and they
9 memorialize their willingness to take care of
10 medical problems or medical complications that
11 occur to not just my patient, but any patient at
12 the OMNI Center. And I thought that was adequate,
13 obviously.
14 **Q. And do you know for a fact, as you sit**
15 **here today, that that would not be adequate?**
16 A. Well, that doesn't, apparently,
17 constitute a transfer agreement.
18 **Q. Do you know if there are other avenues to**
19 **getting a State license, other than having a**
20 **transfer agreement?**
21 A. Physicians becoming credentialed at the
22 facility so that they can care for patients in
23 both facilities.
24 **Q. Do you have any understanding of whether**
25 **that could be one physician, or does it have to be**

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1 every physician in the Surgery Center?

2 A. Well, I don't have a correct answer. I
3 have an answer that reflects conversations that
4 occurred and that were represented by Cathy
5 Kowalski and Jovanna Grissom to myself and the
6 orthopedic doctors at OMNI.

7 Q. Okay.

8 A. And that answer was -- my understanding
9 at some point is that Roy Kemp offered to give a
10 license to open to Jovanna Grissom sometime in
11 very late 2011, or maybe 2012, if one physician in
12 our Center were credentialed at the hospital.

13 Q. Do you have any reason to think that's
14 not accurate?

15 A. No. That's why I hired Dr. Rausch as an
16 internal medicine doctor.

17 Q. Do you recall having discussions with Roy
18 Kemp in 2013 about that very issue?

19 A. Well, I have never talked to him, but I
20 have sent him a few letters. And I believe I sent
21 him a letter specifically asking him to clarify
22 exactly -- there's a significant breakdown of
23 communication between Meridian, certainly myself,
24 and I don't know what they were talking to other
25 people about.

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1 So I asked Mr. Kemp, Exactly what is
2 necessary to get this Center open?

3 Q. And what did he --

4 A. In the form of a letter.

5 Q. Okay. And do you recall, did he respond
6 to it?

7 A. I'm sure he did but I don't specifically
8 recall.

9 Q. Just out of curiosity, Dr. Schneider, in
10 the signature block of your name, there are
11 symbols. Is that an equivalent of a /S/ or do you
12 know what that is?

13 A. I would like to tell you it's my Wyoming
14 brand, but I have absolutely no idea what that is.

15 Q. So at least on the letters that you sent,
16 that wasn't on there. Is that something that's
17 happened during copying?

18 A. You know -- I mean, I could -- having a
19 little bit of a software background, I could tell
20 you that these were likely written in Word and
21 transferred over to a pdf file, Adobe. And when
22 that happened, something such as cursive would
23 have been changed because Adobe wouldn't have
24 recognized it.

25 Q. Okay. Was the cardiologist Dr. Joe

1 Apostol?

2 A. Yes. Thank you.

3 Q. Do you remember someone named Dr. Scott?

4 A. Dr. Jim Scott.

5 Q. May have been. I have seen the name
6 Dr. Scott, and I just wondered if you knew who
7 that was.

8 A. I do. He retired, I believe -- he
9 retired from the St. Vincent's orthopedic group at
10 some point but continued to practice. I didn't
11 have a relationship with him. I think Dr. Schmidt
12 might have.

13 Q. Do you remember when the construction
14 started on the Center?

15 A. Well, I think they had to wait till the
16 ground thawed.

17 Q. Until the what?

18 A. The ground thawed. So maybe March 2011.

19 Q. If I told you it was sometime in the
20 fall, 2010, would that sound correct to you?

21 A. Could be.

22 Q. You don't recall?

23 A. No.

24 Q. Based on what has been marked as
25 Exhibit 8, I'm assuming that as of December 2010,

1 your understanding was that there was not a
2 transfer agreement in place?

3 A. Based upon the letter, I said that I
4 thought there was a transfer agreement in place.
5 I have secured full-time coverage doesn't
6 necessarily mean there's a transfer.

7 Q. Right. But I guess I'm asking, if you
8 had that assumption, I understand, we've -- you've
9 testified as you've testified. I guess the better
10 question is: In December of 2010, you knew that
11 Meridian didn't have a written transfer agreement
12 with Billings or St. Vincent; is that correct?

13 A. Correct.

14 Q. And would the same be true if we looked
15 at Exhibit 7? I mean, based on that letter, would
16 you -- is it correct that you knew that Meridian
17 did not have a transfer agreement in place with
18 St. Vincent or Billings, at least in November of
19 2010?

20 A. Yes, correct.

21 MR. CLAYTON: I'm going to mark as the
22 next exhibit, it will be Exhibit 9.

23 EXHIBITS:

24 (Exhibit No. 9 marked for
25 identification.)

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1 Q. (BY MR. CLAYTON) And this is a document
2 Bates-stamped MSPM 513 through 514. And let me
3 give that to you. And specifically, I'm asking
4 you about Roman numeral II. Again, you're free to
5 review whatever you want on the document. Let me
6 know when you're ready.
7 A. Ready.
8 Q. All right. The top of this document
9 says, OMNI Partner Meeting Minutes. It's dated
10 May 3rd, 2011. Says, Members present: Dr. John
11 Schneider, Dr. Schmidt, Cathy Kowalski, and
12 Jovanna Grissom. And then there are some guests
13 present as well. Do you recall being at this
14 meeting?
15 A. Not specifically, but my name is there.
16 Q. Okay. Do you recall having a discussion
17 at the meeting where you were told, This is the
18 status: Neither hospital system in the community
19 at this point is willing to enter into an
20 agreement with us? Transfer agreement?
21 A. Do I recall specifically from the
22 meeting, or was I just aware that that was the
23 status?
24 Q. Let's start, first, do you recall the
25 discussion?

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1 A. I don't recall the specific meeting.
2 Q. And then were you aware at this point in
3 time, anyway, that there was not a transfer
4 agreement in place from either hospital in
5 Billings?
6 A. I was aware.
7 Q. Now, it talks here about having an
8 agreement with a hospital in Powell, Wyoming,
9 which was apparently 96 miles away. Would that
10 have been Powell Hospital?
11 A. Yes.
12 Q. Do you recall having discussions about
13 that?
14 A. Yeah. I'm the one that tried to come up
15 with that -- I'm the one that was trying to
16 address this issue and came up with that as a
17 potential solution.
18 Q. And why did you see that as a potential
19 solution?
20 A. Well, after we invested a significant
21 amount of money, after this project got going, the
22 fact that we did not have a transfer agreement in
23 place -- and the relevance of that became
24 progressively clearer and clearer -- for, again,
25 and my understanding was for the CMS requirement

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1 to do Medicare cases there.
2 So this was a topic Teresa brought up
3 from the inception, and so if there was resistance
4 on the two hospitals, I was looking for solutions
5 that perhaps a transfer agreement in Powell
6 Hospital might work. Whether it would or not, I
7 don't know, but I'm the one that brought that to
8 the table.
9 Q. You would agree that there's no
10 discussion in these minutes about filing an
11 antitrust lawsuit, true?
12 A. True. Well, true there. Anywhere else?
13 Q. Take your time and look at that if you
14 wish to.
15 A. Okay. True.
16 Q. Would the internal medicine person that
17 you, I think, couldn't remember be a Dr. Johnson,
18 by any chance?
19 A. Well, there's a David Johnson that I went
20 to medical school with, and then there's a Linda
21 Johnson that I don't know. But I really don't
22 recall.
23 Q. All right.
24 MR. CLAYTON: I'm going to mark as the
25 next exhibit Exhibit 10. It's going to be a

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1 document that is Bates-stamped MSPM 515 through
2 518.
3 EXHIBITS:
4 (Exhibit No. 10 marked for
5 identification.)
6 MR. CLAYTON: Let's do this one, Dave,
7 and then we can take a break so you can make your
8 call. Is that good?
9 MR. CLARK: Yep.
10 Q. (BY MR. CLAYTON) Let me hand you what
11 has been marked as Exhibit 10, Dr. Schneider.
12 Again, take your time to review all of it. I
13 specifically want to talk to you about page 2,
14 Roman numeral V which says, Review of various
15 contracts and updates.
16 MR. CLAYTON: And for the record, did I
17 give the Bates number?
18 MR. CLARK: Yeah, you did.
19 THE WITNESS: Okay. I reviewed this.
20 Q. (BY MR. CLAYTON) I'm sorry?
21 A. Did you ask me to review it?
22 Q. Yeah. I'm going to ask you about
23 Section V. My question is on the very first page.
24 These are dated August 2nd, 2011, and it says that
25 in attendance, you were there.

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1 **Do you see that at the top, as a Board**
2 **member?**
3 A. I do.
4 **Q. And my question to you on Section V, it**
5 **says, The Transfer Agreement. It says, This is**
6 **still pending with St. Vincent's Hospital. It is**
7 **being reviewed, and we are hoping to have it**
8 **completed soon via the contract compliance office**
9 **- Sarah McNamara.**
10 **Do you know who Sarah McNamara is?**
11 A. I don't.
12 **Q. Did you have discussions with any**
13 **physicians or administrators at St. Vincent in or**
14 **around August 2011 about the pending transfer**
15 **agreement?**
16 A. I think I testified to my conversation
17 with Dr. Eric Dringman before.
18 **Q. Right.**
19 A. But again, that had more to do with the
20 care of patients --
21 **Q. Right.**
22 A. -- and his indication that they would not
23 provide a transfer agreement.
24 So, obviously, this is hopeful for us.
25 **Q. Sure. My question was --**

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1 A. I didn't have a conversation with
2 administration, no.
3 **Q. Or any of your physician colleagues, just**
4 **to see if you could get intelligence, for lack of**
5 **a better term?**
6 A. Well, Dr. Dringman is pretty high up in
7 the system in administration, and so then my
8 conversations with him, conversations with
9 Dr. Erpelding, looking for ways to mitigate this
10 issues so that we can get the Center open.
11 **Q. And I understand that. To be clear, what**
12 **I'm asking you is, did you speak specifically**
13 **to -- is it Drinnig? I'm sorry.**
14 A. Dringman.
15 **Q. Dring?**
16 A. Dringman, D-R-I-N-G, man, M-A-N.
17 **Q. Okay. Thank you. Did you have a**
18 **conversation specifically with him about this**
19 **item?**
20 A. No.
21 **Q. Do you have any evidence that what is**
22 **being stated in those minutes is untruthful?**
23 A. Is untruthful?
24 **Q. Yes.**
25 A. The evidence would be Dr. Dringman

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1 telling me that there was no -- between the
2 orthopedic department and neurosurgery department,
3 they would not agree to a transfer. At least the
4 physicians would not agree to a transfer
5 agreement.
6 **Q. But what I'm asking you specifically, it**
7 **says this is still pending with St. Vincent's**
8 **Hospital. And I'm just trying to understand the**
9 **facts here. Do you believe that there was a**
10 **transfer agreement that at least was sent and**
11 **pending at St. Vincent's Hospital in August of**
12 **2011?**
13 A. Well, I believe Meridian sent them or
14 perhaps were reviewing their transfer agreement.
15 I believe a template of some type of transfer
16 agreement exists. And it's always pending, it
17 never came to fruition, so....
18 **Q. Okay. Do you think that this is a**
19 **misrepresentation by Meridian?**
20 A. I don't. I think that they continued
21 to --
22 **Q. Thank you. Okay.**
23 **MR. CLAYTON:** You want to take your break
24 so you can do lunch?
25 **MR. CLARK:** Yeah.

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1 **MR. CLAYTON:** We'll be back at 2.
2 (Whereupon, a recess was taken.)
3 **Q. (BY MR. CLAYTON) Okay. Dr. Schneider,**
4 **I'm going to pick up from my lunch break. I think**
5 **you testified earlier that Schneider Limited**
6 **Partnership was created in 2010; is that right?**
7 A. Yes.
8 **Q. Why was Schneider Limited Partnership**
9 **created?**
10 A. Part of Mr. Greear's recommendation for
11 comprehensive estate planning. Schneider Limited
12 Partnership's primary interest was in real estate
13 investment, 2007.
14 **Q. What real estate did it own?**
15 A. It owned the ranch in Wyoming for a
16 period of time; it owned the shares of the
17 Northern Wyoming Surgical Center; it owned the
18 shares of the OMNI Center; it has investments with
19 KBS, which is -- I think it's a real estate trust
20 conglomerate for REITs.
21 **Q. Is it still in existence today?**
22 A. Yes.
23 **Q. Is there a default judgment against SLP**
24 **in the Western Security Bank lien?**
25 A. I don't know. I don't know if the

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1 judgment has been rendered.
2 **Q. Was there also a malpractice insurance**
3 **component of SLP?**
4 A. Yes.
5 **Q. Okay. Explain that to me.**
6 A. So SLP owned Northern Rockies Insurance
7 Company.
8 **Q. All right. And Northern Rockies**
9 **Insurance Company, was that hundred percent owned**
10 **by SLP?**
11 A. Yes.
12 **Q. And what did it do, Northern Rockies**
13 **Insurance Company?**
14 A. It's a captive insurance company formed
15 here in the state of Montana to provide E&O
16 coverage for -- its inception was a part of what I
17 had hoped to be a global plan for the OMNI Center.
18 So the captive insurance company was
19 formed in order to provide, or offer I should say,
20 bridge insurance to individuals who would
21 preferentially use the OMNI Center. So, in other
22 words, if they had a Blue Cross Blue Shield policy
23 that covered 80 percent, my goal at that point was
24 to have an insurance product, for profit
25 ultimately, that would underwrite the other

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1 20 percent.
2 So that was the initial plan of Northern
3 Rockies Insurance Company. It subsequently
4 provided medical malpractice coverage for Northern
5 Rockies Neuro-Spine and myself in the state of
6 Montana. And E&O coverage, like an umbrella
7 policy for general liability.
8 **Q. And the general liability, was that,**
9 **again, for Northern Rockies Neurosurgery and you**
10 **or others?**
11 A. Myself and the employees of Northern
12 Rockies Neuro-Spine.
13 **Q. Who were the employees of Northern**
14 **Rockies Neuro-Spine in 2011?**
15 A. Well, the clinical side: Harley Morrell,
16 who is -- he was a physician's assistant; there
17 was a nurse practitioner, I'm blanking on his last
18 name. It might be on one of these documents.
19 Bob. He was a nurse practitioner, first name was
20 Bob. But it provided clinical coverage, and then
21 there was a series of nurses, including my wife at
22 one point, who worked for the practice.
23 **Q. Is Northern Rockies Insurance Company**
24 **still a going concern?**
25 A. No.

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1 **Q. What happened to it?**
2 A. Northern Rockies Insurance Company
3 provided a policy that covered the territory of
4 Montana. Northern Rockies Insurance Company had
5 claims filed against it for E&O coverage, umbrella
6 policies.
7 And in 2012, I believe the latter part of
8 2012, there were State requirements for there to
9 be a certain number of board members. There was a
10 management company that worked -- that the
11 insurance company paid for. The management
12 company broke up, divorce or something, and then
13 we were reestablishing with part of that
14 management company.
15 They resigned. And we actually didn't
16 have a management company as of January -- I think
17 it was 2013, maybe December of 2013, over the
18 Christmas holiday. So shortly thereafter, the
19 Department of Insurance in Wyoming reviewed this
20 captive insurance company, and their lawyers and
21 whatever administrative policies, people they
22 have, and indicated that Wyoming was a territory
23 outside of coverage for that policy at all times.
24 So Wyoming was never a covered territory for any
25 errors or omissions during the 2008 to 2012, end

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1 of 2012, time frame.
2 **Q. So --**
3 A. So the funds that -- claims made against
4 the funds that were the insurance company, that
5 exhausted the insurance company's funds.
6 **Q. Okay. And the claims made against the**
7 **policy, were those claims that arose in Montana or**
8 **Wyoming?**
9 A. Both.
10 **Q. Okay. What claims were made? Was one of**
11 **them the Monaco case we talked about?**
12 A. Yes.
13 **Q. What were the others, if there were?**
14 A. There was both medical malpractice as
15 well as the umbrella coverage.
16 **Q. Let's talk about the medical malpractice**
17 **case. Was the Monaco case one of those medical**
18 **malpractice cases?**
19 A. Yes.
20 **Q. Were there any others?**
21 A. There were. I don't recall the names but
22 there were.
23 **Q. So what would be the time frame for those**
24 **other cases, medical malpractice cases?**
25 A. Well, and, again, there were claims made

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1 against it, and the insurance policy or the
2 insurance company took a position relative to
3 where those claims were filed. And so the time
4 frame was 2011 through 2013.

5 **Q. And then you said there was an umbrella**
6 **policy as well --**

7 A. Correct.

8 **Q. -- or part of it. What claims were made**
9 **against that?**

10 A. There was a claim for the Biles
11 litigation.

12 **Q. Was that the only one?**

13 A. Yes.

14 **Q. The medical malpractice cases, were those**
15 **cases against you, or were they against someone**
16 **else in Northern Rockies Neuro-Spine?**

17 A. Both.

18 **Q. Who else in Northern Rockies Neuro-Spine**
19 **had med mal claims?**

20 A. Well, the people underneath me, the
21 physician's assistant and the nurse practitioner.

22 **Q. Were they -- the physician's assistant,**
23 **what was that person's name? I'm sorry. I didn't**
24 **remember.**

25 A. Harley Morrell.

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1 **Q. Harley. And then there was a -- did you**
2 **say a nurse anesthetist?**

3 A. Nurse practitioner.

4 **Q. Practitioner. And that was the person**
5 **named Bob?**

6 A. Gantz, G-A-N-T-Z.

7 **Q. Bob Gantz. Were they assisting you or**
8 **somehow involved in the Monaco case, or was it a**
9 **different case?**

10 A. What are you asking? Were they assisting
11 me in the Monaco case?

12 **Q. I was just trying to figure out what med**
13 **mal cases had been filed, and I understood that**
14 **Monaco was one of the claims that had been made.**

15 A. Correct.

16 **Q. And I thought you said there were others.**
17 **And I said, Were those against you**
18 **individually or were those also against anyone**
19 **else?**

20 **And I thought you said they were against**
21 **you as well as people who worked there.**

22 A. Correct statement.

23 **Q. Was there a med mal claim brought against**
24 **the physician's assistant?**

25 A. Yes.

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1 **Q. And what was the facts of that case?**

2 A. You know, the cases were anything from
3 people still having pain after back and neck
4 surgery; the Monaco case, which was a narcotic
5 overdose case; people not fusing their spines
6 after surgery. So that was it, or versions
7 thereof.

8 **Q. Did the closing -- for lack of a better**
9 **term, I'll use the word "closing" -- of the**
10 **Northern Rockies Insurance Company, was that in**
11 **any way integral to your bankruptcy filing?**

12 A. I'm not sure how to answer that. Did the
13 Northern Rockies Insurance Company closing cause
14 me to file bankruptcy?

15 **Q. Yes.**

16 A. No.

17 **Q. Who owned Schneider Limited Partnership?**

18 A. The ownership has not changed since its
19 inception, and that's 49.5 percent shares owned by
20 Michelle Schneider; 49.5 percent by John
21 Schneider; and the extra 1 percent is evenly split
22 between -- I'm sorry -- the extra 1 percent is
23 owned by Schneider Management, LLC, who is the
24 general partner.

25 **Q. And who are the members of Schneider**

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1 **Management, LLC?**

2 A. The revocable trusts of John H. Schneider
3 and the revocable trusts of Michelle R. Schneider
4 each own 50 percent shares of Schneider
5 Management, LLC.

6 **Q. And is there a managing member for**
7 **Schneider Management?**

8 A. At what time frame?

9 **Q. Well, how about 2010?**

10 A. Yes.

11 **Q. Who was that?**

12 A. Myself.

13 **Q. You were. Okay. Were you the managing**
14 **member from 2007 through how long?**

15 A. From 2007 to 2012.

16 **Q. Okay. And 2012, who became the managing**
17 **member?**

18 A. Kathleen Burrows from early 2012 through
19 February of 2015.

20 **Q. And who is the managing member today?**

21 A. Michelle Schneider.

22 **Q. So as you sit here today, then, is it the**
23 **KBS shares -- there was a real estate. What's**
24 **left in it today?**

25 A. Well, the building -- I'm sorry --

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1 **Q. Well, what's left in Schneider Limited**
2 **Partnership today?**
3 A. There are loans between entities
4 within -- there are loans between entities such
5 that there is ultimately a capital account for
6 which -- I guess for lack of a better word -- is
7 reported on our tax forms of what's owned within
8 it today.
9 **Q. So the Schneider -- I'm sorry, not**
10 **Schneider -- but the Northern Rockies Insurance**
11 **Company no longer in existence, not in Schneider**
12 **Limited Partnership; is that accurate?**
13 A. Correct.
14 **Q. You mentioned some real estate. Is there**
15 **still real estate within Schneider Limited**
16 **Partnership?**
17 A. Well, Schneider Limited Partnership
18 owns -- it's the shares in the OMNI building.
19 **Q. Okay.**
20 A. It owns the KBS real estate investment
21 trust. And it owns whatever the value of the
22 shares are in the OMNI Surgery Center.
23 **Q. Okay. Did it also own shares in ONI**
24 **Realty, LLC?**
25 A. It did and does.

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1 **Q. It did and does. So how many shares**
2 **of -- or what percentage of ONI Realty, LLC, does**
3 **SLP own?**
4 A. 18.
5 **Q. 18 shares or 18 percent?**
6 A. Percentage.
7 **Q. Okay. Do you know if that building is**
8 **being sold?**
9 A. It's for sale. I don't know if
10 there's -- I don't know the status of someone
11 buying it.
12 **Q. Are you on the Board of Directors for ONI**
13 **Realty?**
14 A. I was but no longer am.
15 **Q. When did you quit being a member of the**
16 **Board of Directors or the Board for ONI Realty,**
17 **LLC?**
18 A. Well, I had a dispute with -- not --
19 I guess Mark Samples and the other Board members
20 when, over Christmas into 2013, a pipe in the
21 Surgery Center, which is directly proximate to
22 my -- to Schneider Limited Partnership -- sorry --
23 it's directly proximate to the 5500 square feet,
24 which is the Northern Rockies Neuro-Spine leased
25 space for my medical practice. Such that

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1 January 3rd, 2013, when my office personnel showed
2 up to work, our entire suite was flooded. And it
3 destroyed -- it had been standing water for some
4 time, still leaking.
5 So that required me moving my entire
6 practice. The individuals that do the damage
7 stuff with the buildings, that cut out the walls
8 and take out the Sheetrock and the rest of it,
9 performed that function. And the management
10 company for ONI, for the entire building, refused
11 to repair the suite.
12 So Northern Rockies Neuro-Spine stopped
13 paying rent or lease because the contract requires
14 it to be a livable, functional space. So that
15 created a dispute that required Ken Frazier and
16 his Felt Martin law firm to respond to whichever
17 law firm Mark Samples' company uses. And the next
18 thing I knew, I received a letter that they had a
19 secret meeting and voted me off the Board.
20 **Q. So what was the last month that your**
21 **practice paid rent in the building on your clinic**
22 **office?**
23 A. Well, I think we prepaid for the month
24 that was up and coming -- coming forward. So I
25 think Northern Rockies Neuro-Spine paid for

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1 January of 2013.
2 **Q. And you moved out in January 2013 because**
3 **of the water?**
4 A. Immediately.
5 **Q. And then you stopped practicing in**
6 **February of 2013?**
7 A. Surgery.
8 **Q. Surgery. Right.**
9 A. Kept the practice. Surgery in 2013.
10 **Q. Okay. So in March of 2013, were you**
11 **seeing patients?**
12 A. Oh, yes.
13 **Q. And so what were you doing with the**
14 **patients if you weren't doing surgery?**
15 A. Well, I had been in Billings from 1997,
16 so I had a very large patient population that
17 required continuous care. People would still come
18 for an evaluation. It was during the time frame
19 that I was looking at other options, so I was
20 evaluating them and having them treated medically.
21 And if they needed immediate surgery, I'd
22 refer them to someone; and if they did not, then I
23 would refer them, not to a surgeon, but for
24 medical management. And I continued to see
25 patients, both new and follow-up patients, well

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1 into 2014.
2 **Q. So you were seeing patients clinically**
3 **until when in 2014?**
4 A. March-April 2014.
5 **Q. And where were you seeing the patients?**
6 A. We moved to a facility that's -- it's in
7 Billings. I can't give you the address. It's
8 over on the west end of Billings. So it was a
9 clinic space that had, like, an interim healthcare
10 type of -- so we sublet from an individual that
11 had a building, moved into a 1500-square-foot
12 building to continue to see and treat patients.
13 **Q. Did you have malpractice insurance during**
14 **that time?**
15 A. No.
16 **Q. Is that a requirement under State law, do**
17 **you know?**
18 A. No.
19 **Q. Why did you stop seeing patients in 2014?**
20 A. Well, I continued to battle the Wyoming
21 Board of Medicine until 2014, till May of 2014,
22 for my issues over my Wyoming license. I maintain
23 my Montana license without any restrictions and
24 continue to this day to maintain my Montana
25 license. But as of May of 2014, I elected not to

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1 continue seeing patients and closed the practice.
2 **Q. Let me back up for a minute. Do you**
3 **recall selling shares to Dr. Schmidt in the**
4 **beginning of September of 2011, "you" being, I**
5 **think it was SLP.**
6 A. Dr. Frank Schmidt?
7 **Q. Yes.**
8 A. I don't recall if I sold him shares or if
9 he bought them directly from Meridian.
10 **Q. Okay.**
11 **MR. CLAYTON:** Let's mark the next
12 exhibit. I'm going to backtrack on you.
13 **EXHIBITS:**
14 (Exhibit No. 11 marked for
15 identification.)
16 **Q. (BY MR. CLAYTON) It will be Exhibit 11.**
17 **It will be Schmidt 541 through Schmidt 543. Let**
18 **me hand that to you. And I want to just close**
19 **this loop. This appears to be an e-mail dated**
20 **July 16 of 2013 from Mr. Stinson to Mr. Samples,**
21 **copying Dr. Schmidt, Dr. Emery, Dr. Winzenried,**
22 **attaching consents.**
23 **And if you look at Schmidt 542, it**
24 **appears to be a consent signed by Dr. Emery to**
25 **remove you as manager of the company. Is that**

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1 **what you were referring to with ONI Realty**
2 **earlier?**
3 A. Yes.
4 **Q. All right.**
5 **MR. CLAYTON:** Let's mark as the next
6 exhibit, Exhibit 12, a document Bates-numbered
7 Schneider 1040 through 1044.
8 **EXHIBITS:**
9 (Exhibit No. 12 marked for
10 identification.)
11 **Q. (BY MR. CLAYTON) It's a document dated**
12 **August the 9th of 2011. And it is a purchase**
13 **agreement between the Surgery Center and SLP as**
14 **buyer. It looks like SLP is buying additional**
15 **shares. Do you recall signing this document and**
16 **the nature of it?**
17 A. Well, there is my signature on one of the
18 pages. I don't recall the specific document.
19 **Q. Okay. What was SLP's ownership in OMNI**
20 **at the end of 2011?**
21 A. I believe by then Dr. Winzenried and Dan
22 Mattson had come on board, I believe. Can you
23 clarify by telling me if I should assume that?
24 **Q. I think that's right, but let me mark --**
25 **I'm done with that.**

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1 **MR. CLAYTON:** Let me mark as the next
2 exhibit, Exhibit 13, Bates-stamped MSPM 32121
3 through 32125.
4 **EXHIBITS:**
5 (Exhibit No. 13 marked for
6 identification.)
7 **Q. (BY MR. CLAYTON) Give that to you. It's**
8 **dated, if you look on the first page,**
9 **Dr. Schneider, September 28 of 2011.**
10 A. Uh-huh.
11 **Q. And it's a purchase agreement between**
12 **Schneider Limited Partnership and Daniel Mattson.**
13 **If you look at sort of the second "whereas" on the**
14 **first page, it says, Seller, which is defined as**
15 **SLP, desires to sell to buyer, which is defined as**
16 **Mattson, a 5 percent membership interest in the**
17 **LLC for \$50,000.**
18 A. Yes.
19 **Q. And then over on 32124, it looks like**
20 **both SLP and Mr. Mattson have signed the document.**
21 A. Yes.
22 **Q. And then if you look at 32125, it's**
23 **showing SLP as having a 39 percent interest at**
24 **that point; Dr. Schmidt, 10 percent; Mr. Baker,**
25 **5 percent; Dr. Emery, 4 percent; and then**